

### Collective bargaining, decentralisation and crisis management in the German metalworking industries since 1990

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**Collective bargaining, decentralisation and crisis  
management in the German metalworking industries  
since 1990**

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## Introduction

Collective bargaining in the German metal and electrical engineering (M+E) industries has undergone a phase of considerable development since the 1990s. This paper examines these developments, putting a special focus on the changing bargaining agendas at both sectoral and company level and looks at the decentralisation of collective bargaining prior to the Great Recession of 2008-2010. The management of this crisis in metal manufacturing is a further topic.

The M+E industries represent one of the main economic sectors in Germany.<sup>1</sup> In 2008 they accounted for about 12% of the national GDP. It is also a main pillar of the German export economy. According to the employers' association *Gesamtmetall* M+E generated exports worth €561.1 billion<sup>2</sup> in 2010. That is about 60% of the total German export volume (€959.5 billion). The metalworking industries employ some 3.9 million employees, of which only 800,000 are women. The most prominent sub-sector within M+E is the automotive industry with 780,000 workers. The core of the German car industry is marked by seven large manufacturers of which three: Volkswagen, Audi and most recently Porsche, belong to the same company group. The others are Daimler, BMW, Ford and GM Opel. Daimler, Audi, BMW and Porsche largely produce for the so-called premium segment whereas Volkswagen, Ford and Opel are considered to be so-called mass producers. Daimler also has a considerable production of commercial vehicles such as buses and lorries. Should any of the seven companies find themselves in serious difficulty this not only draws major political and public attention but each crisis in the automotive industry is of particular concern to the German metalworkers' union – the trade union involved in M+E. The metal sector, in particular the car industry, is a major pillar of German unionism. Sectoral collective bargaining in M+E has for many years set benchmarks for collectively agreed standards of work.

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<sup>1</sup> M+E as defined in this article covers the NACE sectors C 24.3 – 24.5, 25 – 30, 32 and 33. This definition follows the demarcation used by the trade union IG Metall, the employers' association Gesamtmetall and the Federal Statistical Office (Bundesamt für Statistik, destatis).

<sup>2</sup> Billion = 1,000 million

With the end of the Cold War new markets and opportunities appeared for employers and international competition became intensified. In the political arena economic and social policy shifted to neo-liberal deregulation and liberalisation (Dribbusch and Schulten 2008). When the short lived 'unification boom' ended in 1992 Germany entered a severe recession. Workers and unions lost bargaining power as overall unemployment steadily mounted to unprecedented highs. Since the mid 1990s collective bargaining in metalworking has undergone a sustained process of decentralisation which has found its expression in increasing numbers of so-called opening clauses in collective agreements which have allowed for deviations from the sectoral standards at company or plant level. This has gone along with a shift in company-level bargaining towards cost cutting. Threats of withdrawal of investments, relocation and off-shoring have made employees increasingly sensitive to employers' pressure. At company level a specific form of concession bargaining has developed whereby the employees' side has accepted the management's objective of cost cutting in return for the exclusion of forced dismissals, and limited job guarantees. In M+E both IG Metall and Gesamtmetall struggled to stabilise their membership levels. Just when IG Metall had started increasing efforts to stabilise its membership its main industries were severely challenged by the Great Recession.

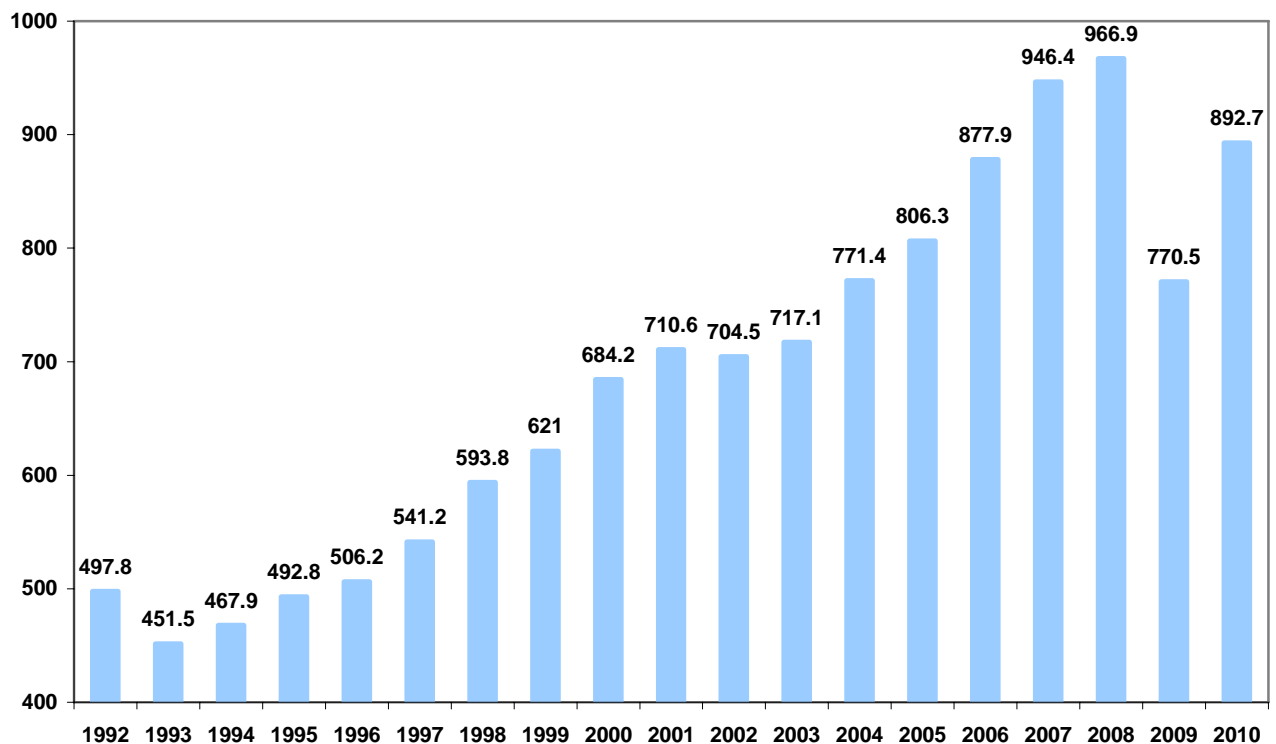
The main concern of the union then became seeking ways to avoid the economic break down of its organising territories. In the face of the crisis the 'productivity coalitions' (Windolf 1989: 3) which had characterised work place relations in much of manufacturing over the past decades now became alliances for survival. The period from late 2008 to the end of 2010 was marked by a kind of 'crisis corporatism'. At company level employees and their representatives were prepared to make concessions as employers had an interest in maintaining their skilled work forces. Extended working time flexibility and large scale working-time accounts which had been implemented in the mid 1990s were now instrumental to avoid redundancies. These arrangements were supported by the government with comparatively attractive short-time working schemes. It is this combination that made 'Germany's job miracle'. Whereas the union was rather successful in securing the core workforces it could not prevent temporary agency workers and employees with fixed term contracts from losing

their jobs, thus making atypical employment even more attractive to management when the economy recovered in 2010.

## 1. M+E: key figures and economic context

Business turnover in all establishments with 20 and more employees in M+E was €892.7 billion in 2010 (figure 1). Over the years the annual turnover in M+E shows two significant dips. The first appears in the recession of 1993 when turnover declined by 9.3% compared to the previous year and the second more substantial one is the drop by more than 20% during the Great Recession in 2009.

**Figure 1: M+E industries: Annual turnover 1992 – 2010 in billion Euros (establishments with 20 and more employees)\***

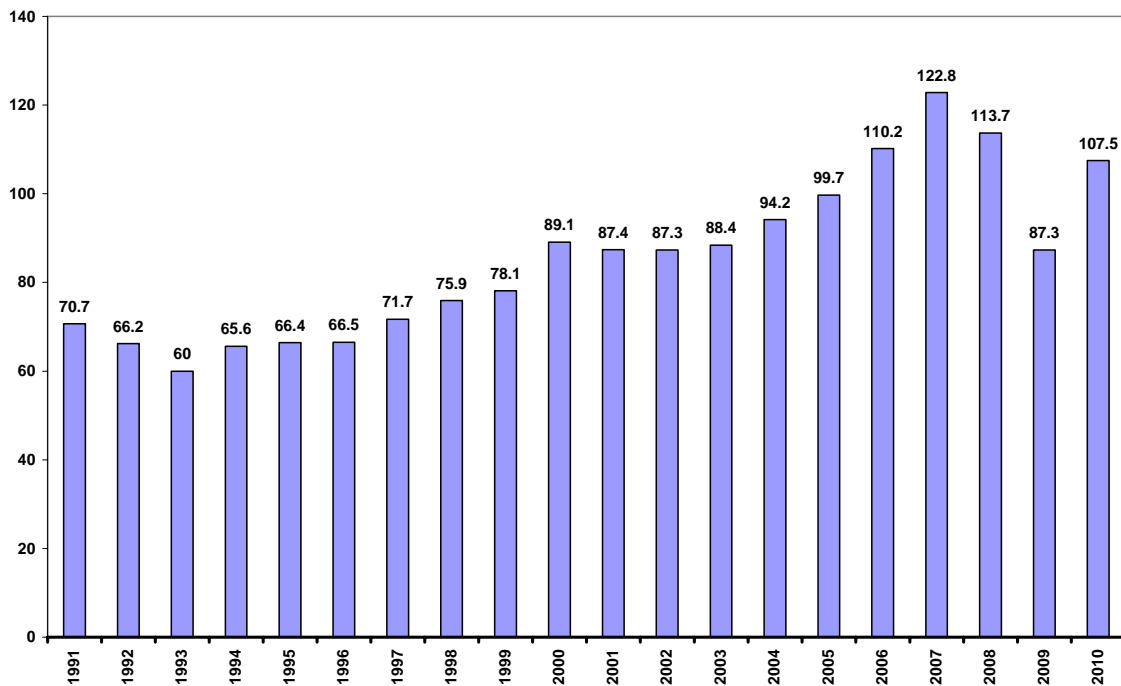


Source: Gesamtmetall based on Federal Statistical Office (destatis)

Note: \*Data not strictly comparable over time due to changing classifications. 1998 switch from German Classification of Economic Activities, edition 1993 (WZ 93) to classification 2003 (WZ 2003); 2003 switch to classification 2008 (WZ 2008).

A similar picture can be seen when the development of orders between 1991 and 2010 is examined (figure 2). Incoming orders peaked in 2007 only to decline substantially in 2008 and 2009.

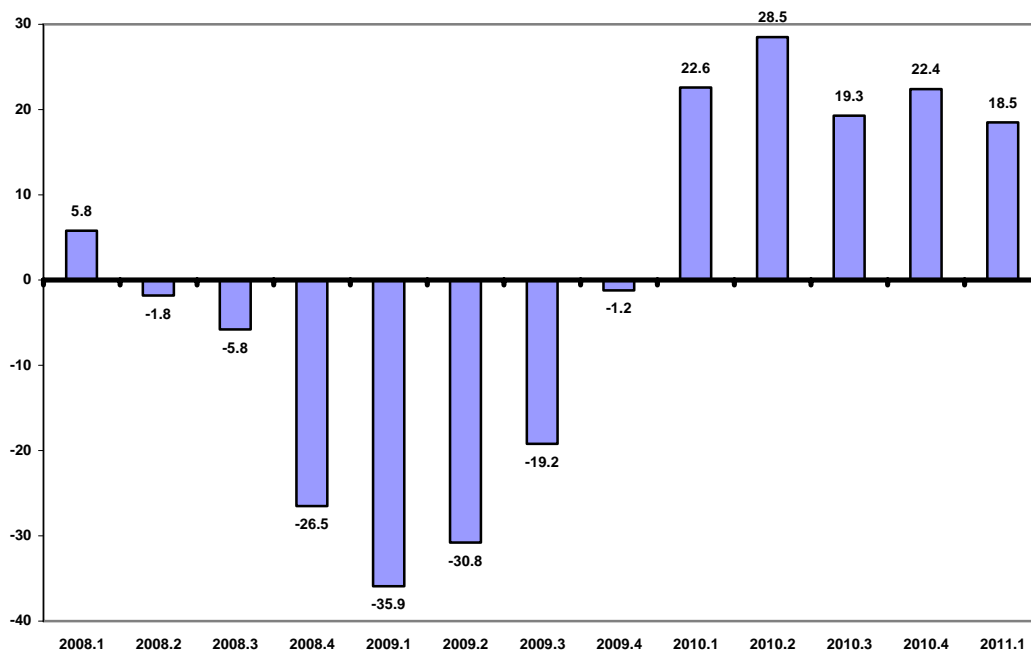
**Figure 2: M+E industries\*: Incoming orders 1991-2010, index values (2005 = 100)**



Source: Gesamtmetall based on Federal Statistical Office (destatis)

Note: \*M+E industries without NACE sectors 32 and 33.

**Figure 3: M+E industries\*: Incoming orders (quarterly change rates in comparison to previous year in %)**



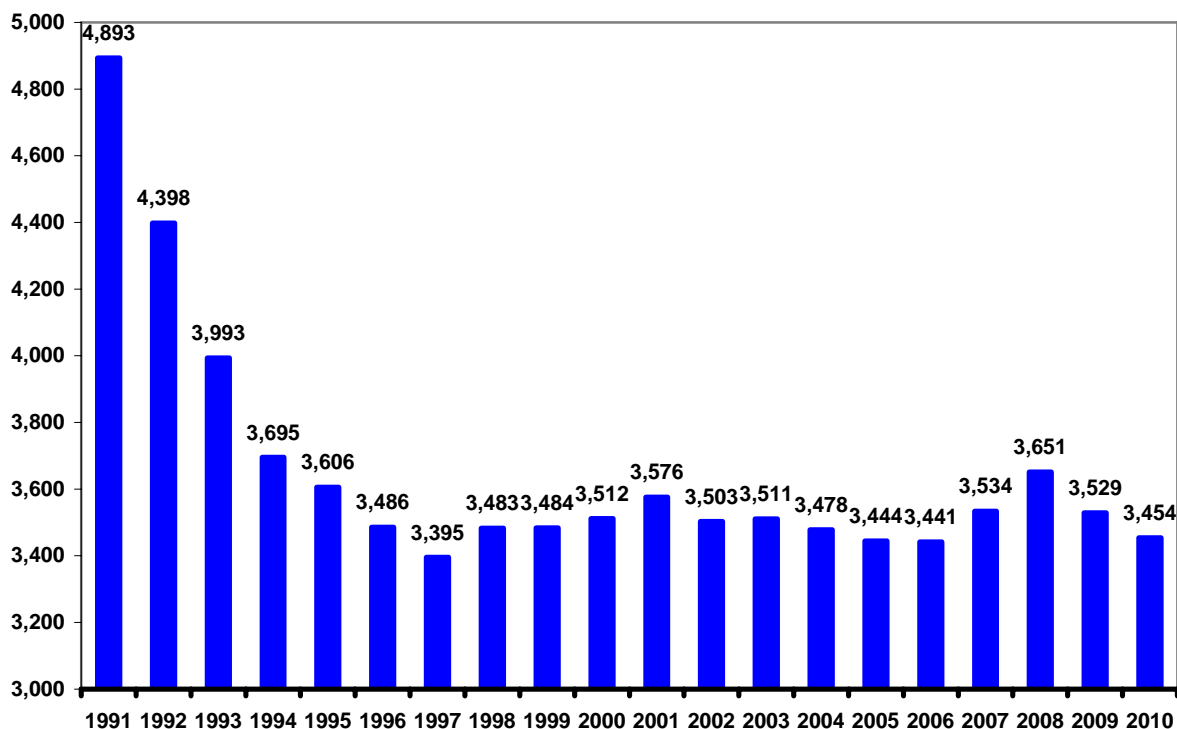
Source: Gesamtmetall based on Federal Statistical Office (destatis)

Note: \*M+E industries without NACE sectors 32 and 33.

If we look at the quarterly development of incoming orders we see that orders had already started to decline in the first quarter of 2008 (figure 3). The heavy downturn of the economy was then announced in the fourth quarter of 2008 year. The massive fall in incoming orders continues in the first two quarters of 2009 whereas the second half of 2009 saw the economy starting to recover; a development which gained momentum in the course of 2010.

There are different sources on employment in M+E. The main source for employment figures used by the German metalworkers' union IG Metall and the employers' association Gesamtmetall are the statistics for the production industries issued by the Federal Statistical Office (Statistisches Bundesamt, destatis).

**Figure 4: M+E industries: Overall employment (in thousands) 1992 – 2010 (establishments with 20 and more employees)\***



Source: Gesamtmetall based on Federal Statistical Office (destatis)

Notes: \* Employment figures include self employed and working family members.

Data not strictly comparable over time due to changing classifications. 1998 switch from German Classification of Economic Activities, edition 1993 (WZ 93) to classification 2003 (WZ 2003); 2003 switch to classification 2008 (WZ 2008).

They have the advantage of delivering the most up-to-date data. The data, however, covers only establishments with 20 and more employees and includes all categories of



employees including self-employed and working family members. According to this definition there were 3.354 million people employed in M+E in 2010 (figure 4).

Employment figures show a substantial decline, particularly in the first half of the 1990s. The regional dynamic of the decline becomes visible by looking at separate data for western and eastern Germany (table 1). Employment in western Germany dropped in the first half of the nineties and has been more or less stagnating since then. In eastern Germany we first see a massive drop in employment levels caused by the deindustrialisation and restructuring of the eastern M+E sector. Reaching the lowest point in 1997 employment recovered substantially the following years. Whereas annual employment declined by more than five percent between 2008 and 2010 in western Germany, there was only a modest decrease of less than two per cent visible in eastern Germany.

**Table 1: M+E industries: Overall employment (in thousand) 1991 – 2010 – eastern and western Germany (establishments with 20 and more employees)\***

Year	West Germany	East Germany	Germany
1991	4,078	815	4,893
1992	3,970	428	4,398
1993	3,649	344	3,993
1994	3,382	313	3,695
1995	3,314	292	3,606
1996	3,212	274	3,486
1997	3,135	260	3,395
1998	3,209	274	3,483
1999	3,205	279	3,484
2000	3,221	291	3,512
2001	3,270	306	3,576
2002	3,194	309	3,503
2003	3,194	317	3,511
2004	3,156	322	3,478
2005	3,074	370	3,444
2006	3,063	378	3,441
2007	3,133	401	3,534
2008	3,225	426	3,651
2009	3,108	421	3,529
2010	3,035	419	3,454

Source: Gesamtmetall based on Federal Statistical Office (destatis)

Notes: \* Employment figures include self employed and working family members.

Data not strictly comparable over time due to changing classifications. 1998 switch from German Classification of Economic Activities, edition 1993 (WZ 93) to classification 2003 (WZ 2003); 2003 switch to classification 2008 (WZ 2008).

A coverage of all establishments regardless their size and a gender split are the main advantages of the employment statistics issued by the Federal Employment Agency (Bundesagentur für Arbeit, BA). Their main series refer to employees liable to social security contributions (sozialversicherungspflichtig Beschäftigte). They do not cover employees with so-called mini-jobs: those are jobs paid not more than €400 a month – the threshold for social security contributions. As of 31 December 2010 the BA recorded 3,885,926 such employees in the M+E sector (table 2). 80% of employees were men. To these add some 284,000 mini-jobbers of which 182,000 have a mini-job as sole employment. The single most important industry is the manufacturing of machinery (NACE 28) and the automotive industry (NACE 29). The latter is widely regarded as the core of the German export economy and will represent a special focus of the following study.

**Table 2: Employment M+E industries by sub sectors (as of 31 December 2010)**

<b>NACE Code</b>	<b>Sector</b>	<b>Total</b>	<b>Men</b>	<b>Women</b>
24.3	Manufacture of other products of first processing of steel	14,922	13,136	1,786
24.4	Manufacture of basic precious and other non-ferrous metals	72,355	61,344	11,011
24.5	Casting of metals	82,522	73,767	8,755
25	Manufacture of fabricated metal products, except machinery and equipment	745,922	606,062	139,860
26	Manufacture of computer, electronic and optical products	406,888	284,270	122,618
27	Manufacture of electrical equipment	339,557	245,596	93,961
28	Manufacture of machinery and equipment n.e.c.	951,097	801,360	149,737
29	Manufacture of motor vehicles, trailers and semi-trailers	778,641	656,315	122,326
30	Manufacture of other transport equipment	135,056	115,794	19,262
32	Other manufacturing	218,657	113,312	105,345
33	Repair and installation of machinery and equipment	140,309	117,185	23,124
<b>Total</b>	<b>M+E</b>	<b>3,885,926</b>	<b>3,088,141</b>	<b>797,785</b>

Source: Federal Employment Agency (Bundesagentur für Arbeit, BA); own calculation

## **2. The automotive industry**

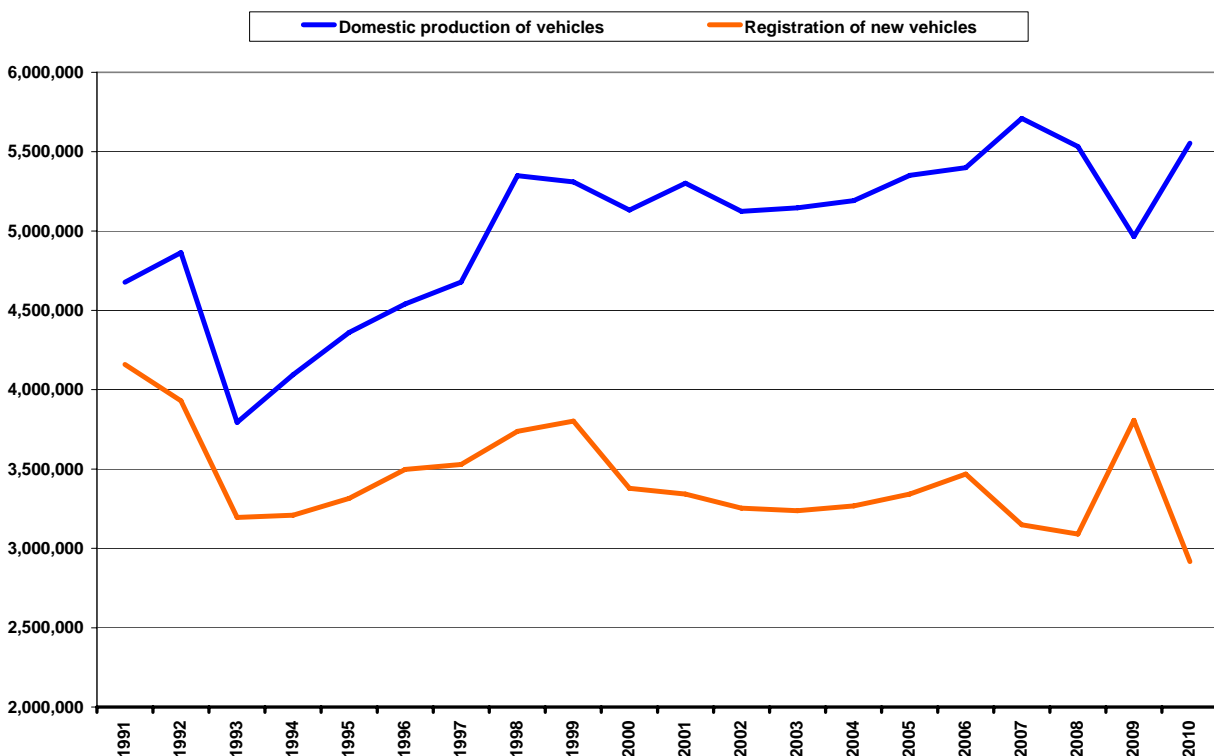
*Turnover, production, incoming orders*

A key industry within M+E is the automotive industry. It remains one of the most important sectors in the German export economy. A recent study for the Federal Ministry of Economics and Technology (Bundesministerium für Wirtschaft und Technologie, BMWi) underlined its economic importance and pointed to the interdependence with

other industries (Legler et al. 2009). According to data issued by the Federal Statistical Office, in 2010 the industry accounted for a business turnover of €317 billion which is about 37% of total turnover in M+E (referring to establishments with 50 and more employees).

The domestic production of passenger cars steadily increased in Germany from the late 1950s onwards. When the short-lived unification boom ended in 1992 production fell sharply but recovered throughout the 1990s. According to figures provided by the German Association of the Automotive Industry (Verband der Automobilindustrie, VDA) production peaked at 5.7 million cars in 2007 only to drop sharply in the crisis of 2008 – 2009. The new registration of vehicles in Germany stagnated somewhat over the past decade – the peak of 3.8 million in 2009 is largely the effect of the car scrap bonus (figure 5). That it corresponds with a decline production can be explained by the fact that the car scrap bonus did not exclusively stimulate the sale of domestic cars but raised demand for imported cars as well.

**Figure 5: Domestic car production and registration of new vehicles 1991-2010**

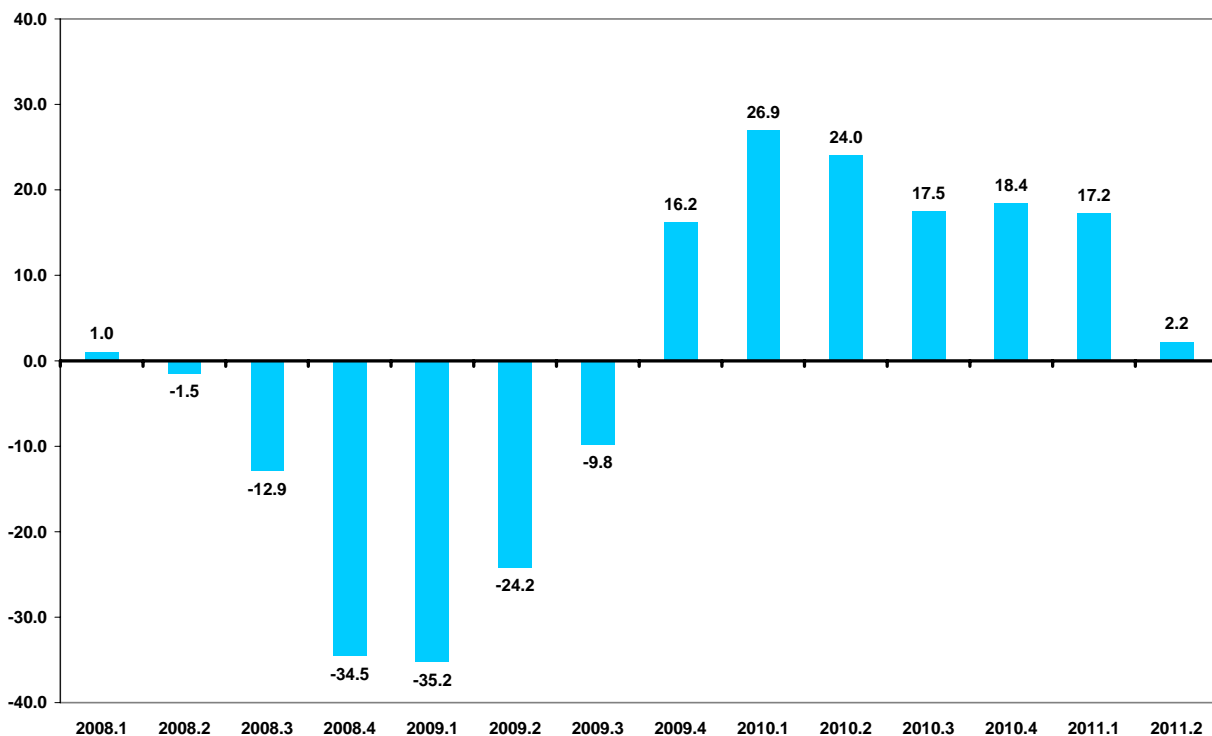


Source: VDA

The German automotive industry is increasingly dependent on exports. About 47% of all cars produced in Germany were exported in 1991. In 1997 already 60% of all cars were exported and in 2007 exports accounted for some 75% of domestic production. This share dropped in 2009 to 69%, but the upswing in 2010 was again largely export-driven with 76% of passenger cars produced in Germany being shipped to other countries. 62% of exports in 2010 went to other European, most notably western European countries.

Given the weight of the automotive industry within M+E it comes as no surprise that the economic development during the crisis reflects that in the whole M+E sector. A closer look reveals that the substantial decline in orders in the industry had started in the second quarter of 2008 (figure 6).

**Figure 6: Automotive industries: Incoming orders (quarterly change rates in comparison to previous year in %)**

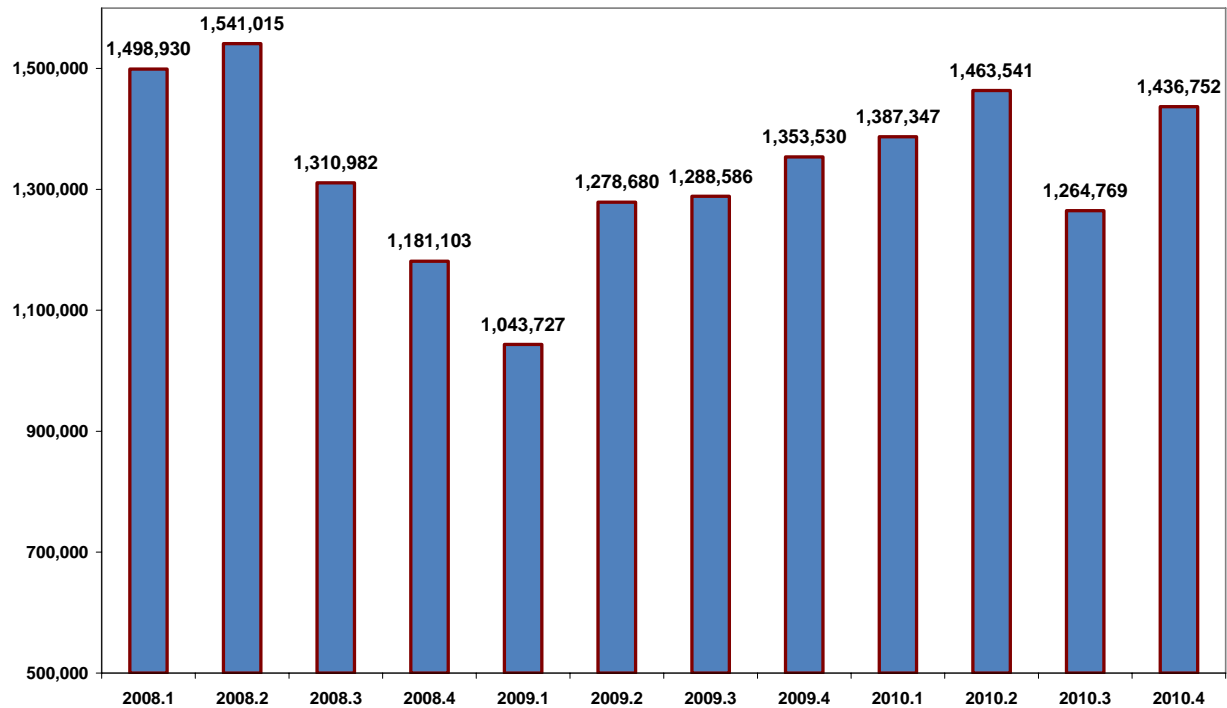


Source: Federal Statistical Office (destatis)

During the crisis domestic production of passenger cars followed a similar pattern although with some delay (figure 7). Production was at a low in the first quarter of 2009

with 1.05 million units but recovered comparatively soon with a dip in the third quarter of 2010 which can partly be explained by the expiry of the car scrap bonus.

**Figure 7: Domestic production of passenger cars by quarter, 2008.1 – 2010.4**

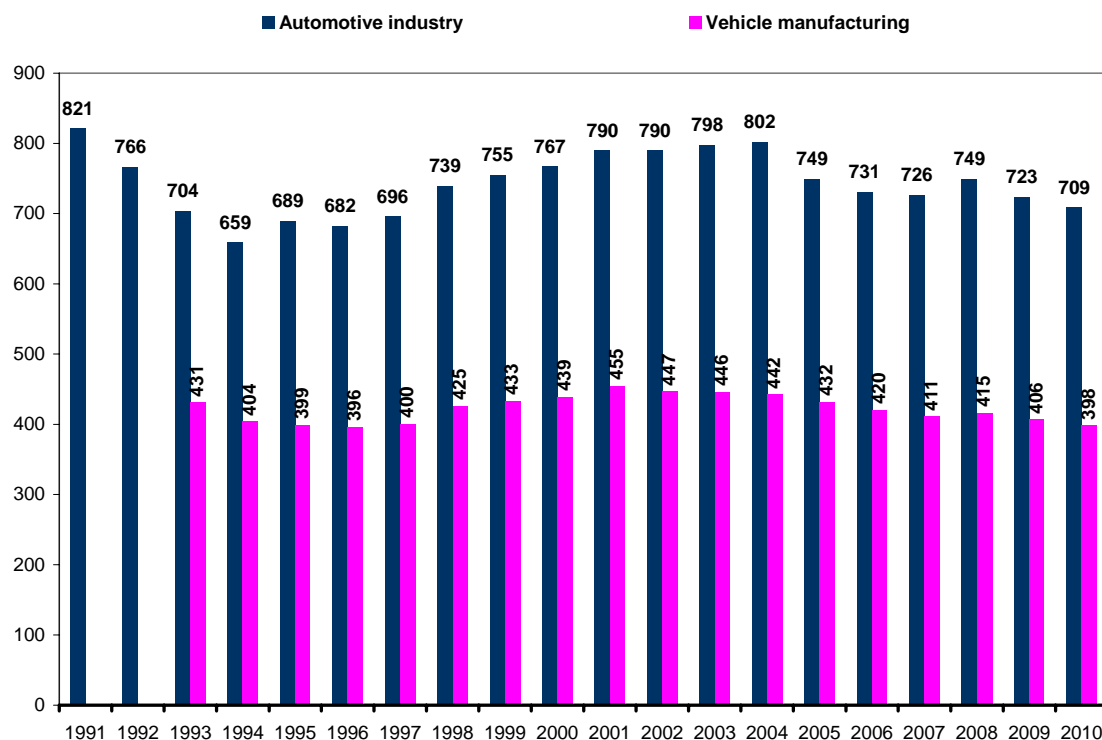


Source: VDA, own calculation

### *Employment in the automotive industry*

According to figures produced by VDA, some 709,000 employees worked in the industry in 2010. Of these, 398,000 worked in vehicle manufacturing and some 311,000 in the supply side of the sector (including some 29,000 in the manufacturing of trailers). The overall development of employment reveals a downswing in the early 1990s which has been followed by a continuous upswing since the second half of the nineties (figure 8).

**Figure 8: Employment in the automotive industry (in 1,000s) 1991-2010**



Source: VDA

As in the case of M+E, the statistics used by VDA do not cover the whole industry but exclude small establishments. Therefore, the employment statistics of the Federal Statistical Office (BA) which follow the new NACE classification established in 2008 differ from the overall industry figures given by VDA. According to BA, at the end of 2010 some 779,000 employees liable to social security contributions worked in the industry. Women accounted for 16% of this workforce. To these add some 5,600 mini-jobbers.

The two big sub-sectors – car manufacturing and the supply industries – are in many instances two worlds apart. Whereas the leading car manufacturers - despite differences in detail in products and production strategies - have very much in common, especially when it comes to industrial relations and the collectively agreed terms and conditions, the picture is much more diverse on the supply side of the automotive sector. Some suppliers - such as for example those providing textiles - are not even found in the metal industry and the economic situation and employment relations differ so much that general statements of significance for the supply sector are very difficult to make. So

when it comes to speaking about the automotive sector the perception and the public picture is shaped by car manufacturing.<sup>3</sup>

### **3. The industrial relations framework**

The most characteristic feature of the industrial relations framework in Germany is the 'dual system of interest representation' based on trade unions and employers who are solely responsible for collective bargaining, and works councils as the main workplace employee representation bodies (cf. Thelen 1991; Müller-Jentsch and Weitbrecht 2003). Industrial action is only lawful within the context of collective bargaining and the sole privilege of unions and employers (cf. Dribbusch 2007). Political or general strikes are outlawed.

At workplace level, employee representation in the private sector is governed by the Works Constitution Act (*Betriebsverfassungsgesetz*, BetrVG) which was first introduced in 1952 and substantially amended in 1972 and 2001. The works council, which is elected every four years, is not a trade union structure as all employees have the right to vote and to stand as candidates. The works council has a number of information, consultation and co-determination rights but is not involved in collective bargaining and has no right to call industrial action. Works councillors are legally protected against dismissals. Works councils at sites belonging to the same legal corporation elect representatives to the company or group works councils. In M+E most members of works councils are members of the German metalworkers' union IG Metall. All members of works councils who are members of IG Metall are considered by the union as ex officio trade union representatives. They are often members in the union's bargaining commissions and elected as local, regional and national delegates to union conferences.

A specific feature of German industrial relations is the system of co-determination at board level. It was first established in its most far-reaching form in 1951 in the coal, iron and steel industry where calls for nationalization had been most powerful. The 1976 Co-Determination Act (*Mitbestimmungsgesetz*) introduced a so-called 'parity co-

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<sup>3</sup> The amount of more or less detailed information about car manufacturing, however, should not lead to the misperception of equating the situation of employees or the established pattern of industrial relations in the major car manufacturers with that of the

determination' for public limited companies with more than 2,000 employees whereby employees' and union representatives have the same number of seats in the supervisory boards as the shareholders. The latter retain, however, a decisive vote if no majority decision is reached. Works council and board level representation are intertwined as leading works councillors are usually also elected to sit on the supervisory board.

### *The collective bargaining framework*

The legal basis of collective bargaining in Germany is laid down by the Collective Agreements Act, 1949 (*Tarifvertragsgesetz*) (Kempen and Zachert 2006). Collective agreements can only be concluded between employers' associations (or individual employers) and trade unions. In contrast, works councils – statutory employee representation bodies elected at workplace and company level – may only conclude works agreements (*Betriebsvereinbarung*). Under the Works Constitution Act (*Betriebsverfassungsgesetz*) these 'shall not deal with remuneration and other conditions of employment that have been fixed, or are normally fixed, by collective agreement' (Article 77, Para 3).

According to the so-called 'favourability principle' (*Günstigkeitsprinzip*), deviations from collectively-agreed provisions are in principle only possible if they favour the employees concerned. For example, a works agreement concluded between the works council and management can provide for top payments or bonuses but must not undercut the collectively agreed rates of pay or bonus payments. However, the bargaining parties may agree to so-called 'opening clauses' in collective agreements which allow the bargaining parties at company level to agree on deviations from collectively agreed standards, even if these suspend, delay or undercut terms and conditions of the collective agreement in place. Depending on the wording of the agreed opening clause, these deviations might or might not require the final consent of the sectoral bargaining parties.

Collective agreements are directly binding for all members of the bargaining parties concerned – that is, employees who are members of the signatory unions and all



companies who are members of the signatory employers' associations, or a single company in the case of a company agreement. In practice, employers bound by a collective agreement usually apply agreed provisions to all employees, regardless of whether they are trade union members or not.

According to Article 5 of the Collective Agreements Act, the Ministry of Labour (at federal state level or at national level) can extend the applicability of an existing collective agreement to include employees and employers not bound by the agreement by an 'order of extension' (*Allgemeinverbindlichkeitserklärung*, AVE) if several preconditions are met. Out of 73,000 collective agreements registered with the Federal Ministry of Labour and Social Affairs (*Bundesministerium für Arbeit und Soziales*, BMAS) in 2010, only 476 were extended. None of those affected the metal working industries.

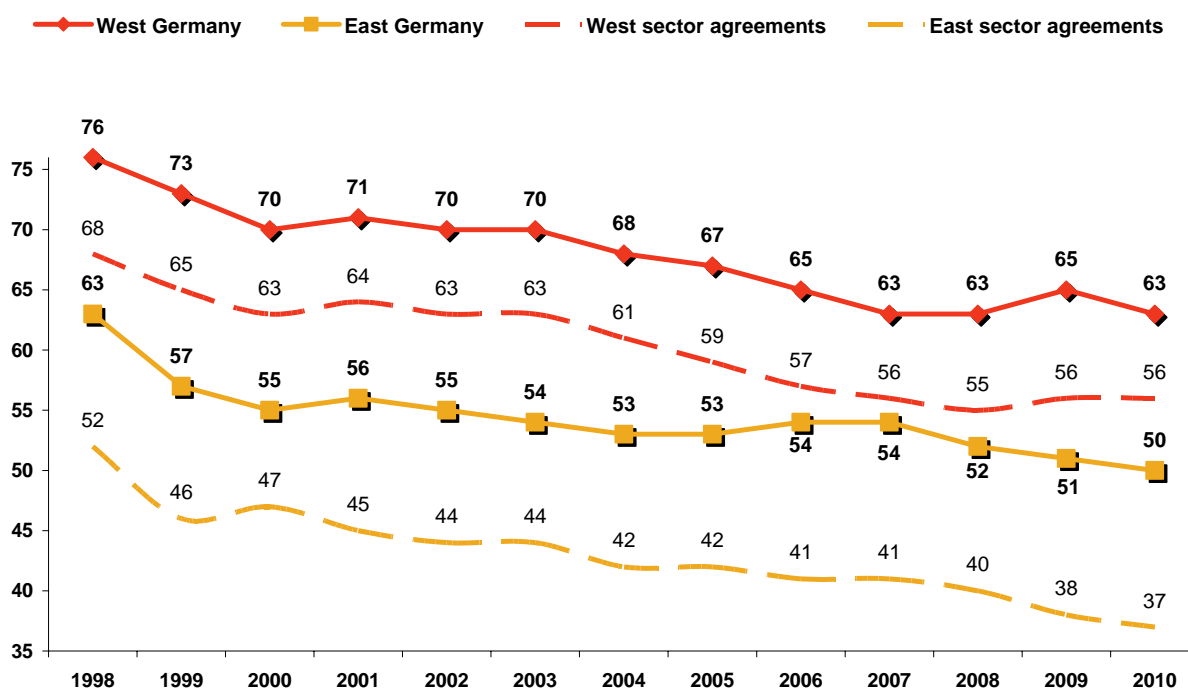
There is no statutory minimum wage in Germany. However, collectively agreed minimum wages can be extended under the Posted Workers Act (*Arbeitnehmer Entsendegesetz*). This enables the Ministry of Labour to declare a collectively agreed minimum wage to be generally binding by way of a ministerial directive. Again this has had no practical consequence for M+E so far.

There are two basic types of collective agreements: association-level or sectoral agreements (*Verbands- oder Branchentarifverträge*) and company agreements (*Firmentarifverträge*) for individual companies or establishments. On 31 December 2010, there were 73,959 officially registered valid collective agreements, of which 9,477 were pay agreements (WSI, *Statistisches Taschenbuch Tarifpolitik* 2011). In 2010, overall collective bargaining coverage of employees was 60%. The most important bargaining sectors are M+E, chemicals, and public services: settlements in these sectors often set the pattern for the overall bargaining round. There are also an increasing number of company agreements between trade unions and individual firms that are not members of an employers' association. According to survey data, 56% of west German employees and 37% of employees in east Germany were covered by sectoral agreements in 2010 (Ellguth and Kohaut 2011). 9% of employees in west Germany and 17% in east Germany were covered by company level collective agreements. The remaining 37% of the workforce in west Germany and 51% in east Germany are not covered by a collective agreement. However, a significant number of

companies that are not formally subject to an agreement have stated that they use sectoral agreements as a benchmark for their own pay-setting.

There has been a significant decline in bargaining coverage since the late 1990s, the period for which comparable data is available (figure 9). Today Germany has one of the lowest levels of bargaining coverage in Western Europe (Schulten 2010).

**Figure 9: Collective bargaining coverage 1998 - 2010**



Source: IAB Establishment Panel; WSI

### *Bargaining parties in M+E: the union side*

The trade union landscape in Germany is dominated by the Confederation of German Trade Unions (*Deutscher Gewerkschaftsbund*, DGB), the largest trade union confederation in Germany which represents almost 80% of all trade union members in Germany. The two union confederations outside the DGB are the German Civil Service Association (DBB) and a small Christian Trade Union Confederation (CGB) notorious for undercutting terms and conditions negotiated by DGB affiliates (Dribbusch 2009). Finally there are a number of non-affiliated mostly professional unions. The DGB and its affiliated unions consider themselves to be a unitary and non-partisan movement,

though affiliates have traditionally had close ties and a privileged partnership with the Social Democratic Party of Germany (*Sozialdemokratische Partei Deutschlands*, SPD). An established role is also held by a small Christian wing with special relations to the Christian Democratic Party (CDU). More recently a significant number of trade unionists are seen to be affiliated to the new Left Party (DIE LINKE). The eight DGB-affiliates organise employees regardless of status, job category or profession.

The metalworking industries are the organising territory of the German Metalworkers' Union (*Industriegewerkschaft Metall*, IG Metall), the largest DGB affiliate with some 2.24 million members in 2010. About 30% of the unions' members are either unemployed or have retired. Almost 90% of the active membership works in the metal and electrical engineering industries. The most important stronghold of the union is the car industry where seven out of ten employees are members. In some car manufacturing plants union density remains at 90% and more. On the supply side of the automotive industry union density is a little weaker with slightly more than four out of ten employees being organised. Not as well organised are the electronic and IT industries where less than three out of ten employees hold a membership card.

#### *Bargaining parties in M+E: the employers' side*

The Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA) is the peak organisation on the employers' side. The most important single industry confederation within BDA is *Gesamtmetall* which represents the employers' associations for the metalworking industries. It is an umbrella organisation of a large number of regional employers' associations in M+E. These regional associations are the bargaining partners of IG Metall when it comes to negotiate sectoral or industry-wide collective agreements. Traditionally, coverage by an industry-wide collective agreement comes with membership of the employers' association which is party to the agreement. Since the 1990s some employers' associations have introduced a special membership status, known as 'Ohne Tarifvertrag' (OT; 'without collective agreement') status, which provides companies with the full range of services of the association but relieves them of the duty to comply with the standards set by the industry-wide collective agreement. Gesamtmetall was initially against this

type of membership but accepted it in 2005 by acknowledging associations with ‘OT’-status as affiliates. Some companies take advantage of this special OT status but negotiate company-level agreements, often with the support of their employers’ association. Others, however, have simply refrained from collective bargaining altogether.<sup>4</sup> In the eyes of IG Metall the most worrying development is the fact that membership in Gesamtmetall is rapidly declining and even the admission of ‘OT’-membership has not been able to stop this decline (tables 3a and 3b). This makes it much more difficult for the trade union to defend existing bargaining coverage.

**Table 3a: Gesamtmetall: member companies of affiliated associations and employees (covered by sectoral agreements)**

Year	Western Germany		Eastern Germany	
	companies	employees	companies	employees
1991	8,168	2,920,487	1,365	535,066
1992	8,081	2,738,722	1,278	270,924
1993	7,752	2,458,665	1,111	204,458
1994	7,458	2,305,423	983	163,725
1995	7,094	2,210,511	792	141,749
1996	6,731	2,109,014	655	119,713
1997	6,504	2,072,480	540	100,423
1998	6,263	2,065,300	504	90,136
1999	6,066	2,029,468	442	85,256
2000	5,826	2,038,258	426	84,214
2001	5,697	2,021,683	396	82,116
2002	5,351	1,984,010	353	77,612
2003	4,819	1,854,677	290	67,490
2004	4,508	1,801,203	266	57,823
2005	4,189	1,757,819	240	64,622
2006	3,978	1,714,027	236	65,118
2007	3,803	1,708,699	214	66,921
2008	3,685	1,703,855	212	68,318
2009	3,577	1,634,786	212	63,952
2010	3,495	1,625,796	218	64,542

Source: Gesamtmetall

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<sup>4</sup> In the metal working industry tensions within the employers’ camp about which bargaining policy should be pursued became more prominent in the course of the 1996 bargaining round (cf. Thelen 2000) and some companies questioned the use of being organised at all.

**Table 3b: Gesamtmetall: member companies of affiliated associations and employees ('OT status)**

Year	Western Germany		Eastern Germany	
	companies	employees	companies	employees
2005	1,432	164,351		
2006	1,892	223,476	7	494
2007	2,229	282,828	75	7,364
2008	2,385	320,523	84	8,775
2009	2,460	309,409	85	8,839
2010	2,639	324,634	86	10,161

Source: Gesamtmetall

### *The organisation of collective bargaining in M+E*

With the notable exception of Volkswagen due to its mixed ownership, – the federal state of Lower Saxony holds a blocking minority of shares – not admitted to an employers' association and therefore negotiates company-level agreements, the dominant pattern of collective bargaining is sectoral bargaining. M+E is historically subdivided into 21 regional bargaining areas where the appropriate employers' associations negotiate with IG Metall. The most prominent bargaining areas are in the federal states of Baden-Wurtemberg and North-Rhine Westphalia where the bulk of the metalworking industries is concentrated. Sectoral bargaining usually takes the form of pattern bargaining whereby a pilot agreement is concluded in one bargaining region and then transferred - sometimes with some specific regional amendments - to the other bargaining areas. The sectoral collective agreements concluded cover the whole range of industries within M+E, i.e. the automotive industry, machine building, electrical industry, aerospace industry, shipyards and others. The iron- and steel industry as well as the metal trade are independent collective bargaining sectors.

The decisive body on the union side is the bargaining commission (Tarifkommission). There are company level bargaining commissions when this form of bargaining is required but the most important body is the regional bargaining commission. This union body is composed of local union delegates representing a wide range of industries and sectors. These bodies decide which demands should be tabled, oversee the negotiations, usually conducted by a small committee, and decide about whether to accept or reject the outcome of negotiations. The regional bargaining commission is also

responsible for declaring negotiations to be failed and to demand industrial action. The final decision about industrial action, however, is with the national executive of IG Metall.

Unions and employers' associations have their own rules and procedures which govern industrial action. The rules of IG Metall require a ballot before official industrial action can be taken. The decisions to undertake a ballot and to strike are at the discretion of the union's national executive committee. Short-term token strikes, so-called warning strikes do not require a ballot but need executive approval to be considered official. The national union executive also has the last word when it comes to deciding whether or not an agreement is to be renegotiated and is an important influence in the process of formulating the unions' demands.

### *Industrial action*

Post-war German strike activity can only be fully understood by appreciating the tradition of strike pay which is one of the classic benefits German unions provide. Strike benefits are paid to members involved in official strikes or locked-out by employers. The amount of strike pay has varied over time. IG Metall pays about 12 times the individual monthly contribution per week. Some unions also provide benefits in the event of warning strikes, others – such as IG Metall – do not. Employers' associations also provide mutual support and maintain funds to compensate member companies for costs arising from strikes and lockouts (Kittner 2005: 643–644).

IG Metall has developed a collective bargaining policy which considers industrial action to be an exceptional but nevertheless necessary means to enforce demands or defend achievements. This policy is seen as a supplement to, rather than a contradiction of, the day-to-day policy of social partnership pursued by the works councils. The employers' side in metalworking also has a tradition of sometimes seeking conflict if deemed necessary (Kittner 2005: 658–663). This was particularly demonstrated by the large scale use of lock-outs from the 1960s up to 1984 (Dribbusch 2007). Unofficial stoppages have never completely vanished and it has been a common albeit not frequent practice that works councils occasionally complacently tolerate if not encourage walk-outs via work place representatives to put pressure on management. These strikes which legally cannot be so-called by name are usually labelled as 'information meetings'.

Metal manufacturing in general and the car industry in particular have emerged as strongholds of unionism with particular disruptive power on the part of workers because of the key role of the industries for the export driven 'economic miracle' of the 1950s and 1960s. This went along with the establishment of a strike tradition among metalworkers (Kittner 2005: 378; 661) in particular in the bargaining region of Baden-Wurttemberg where the most prominent disputes in metal working took place. The metal sector with the car industry at its core dominated the official strike record for decades, not least because of its sheer size and the large numbers of workers who could be mobilised.

However, compared to other European countries such as Italy, France or the UK, overall strike levels in Germany have always been low (cf. Shalev 1978: 15; Velden et al. 2007) although there is a persistent and increasing under-recording of strike activity in the official dispute records of the Federal Employment Agency (cf. Dribbusch, 2007, 2010). This has been widely regarded as a competitive advantage. Unions have always pointed with pride to their contribution to industrial stability.

### *Social partnership and conflict*

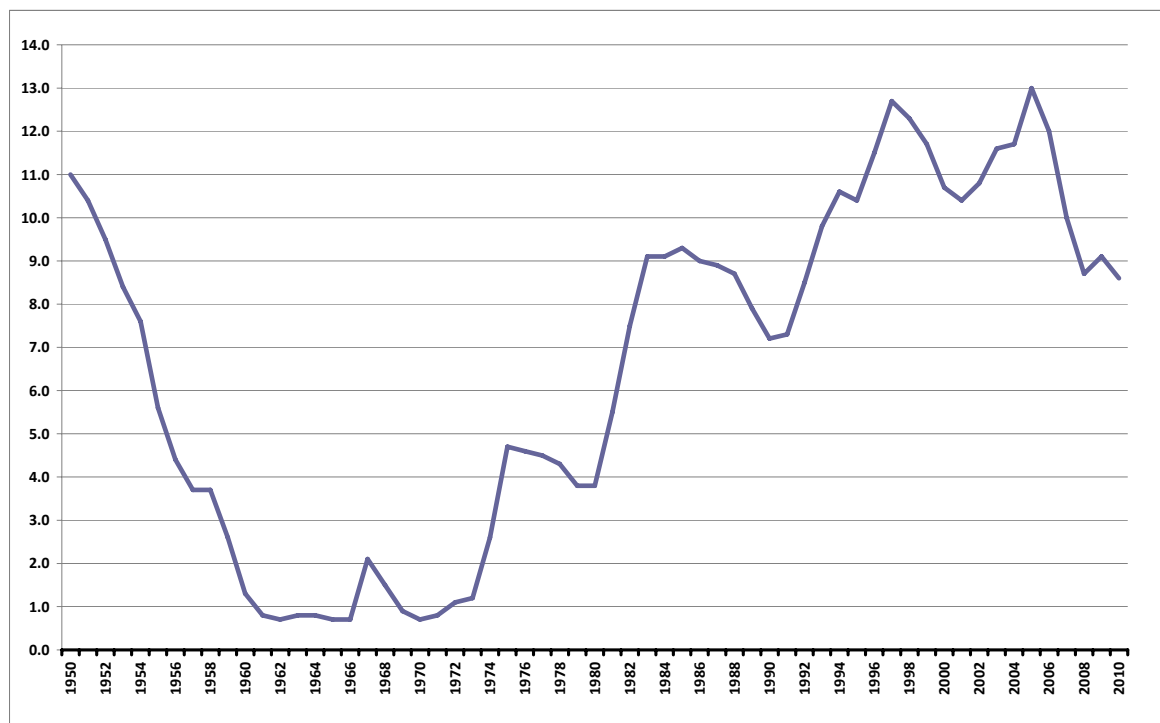
Industrial relations in M+E and in particular in the German automotive industry are firmly embedded in a tradition of social partnership which emerged as a result of a post-war class compromise in Germany. This compromise seemed to guarantee both employers' profits and benefits for workers. Nevertheless substantial differences between employers and unions remained. Whereas employers reclaimed absolute discretion in management affairs unions insisted on the expansion of co-determination rights. But these were not antagonistic interests as both sides shared the overall interest of defending the competitiveness of the German economy in the world market (Esser 1982, 260-262). Social partnership translated into a kind of 'competitive corporatism' which also shaped the unions' reactions to the successive economic crises.<sup>5</sup> While accepting the paradigm of national competitiveness, the unions have advocated a 'high-road strategy' according to which competitive advantage could best be won through

investments in education and training, an excellent infrastructure and a highly motivated and productive workforce. The latter, in particular, requires an important role for unions and works councils, as they are able to mediate potential conflicts at industry and company level. In order to characterise the ambivalent relation between institutional cooperation and the fundamental conflict of interest, German labour relations have also been described as a system of ‘conflict partnership’ (Müller-Jentsch 1999).

### *Shifts in the balance of power*

Until the mid 1970s the overall balance of power was comparatively favourable for workers and unions. The structural power<sup>6</sup> of labour grew as unemployment declined (figure 10).

**Figure 10: Unemployment rate 1950-2010 (annual averages in %)**



Source: Federal Employment Agency (Bundesagentur für Arbeit, BA), own calculation

Note: Unemployment as percentage of all wage earners (*abhängige zivile Erwerbspersonen*) (i.e. excluding self-employed)

<sup>5</sup> The term competitive corporatism was originally introduced by Martin Rhodes (1998) to analyse the new nationally-negotiated social pacts, which emerged in Europe during the 1990s, and to distinguish them from traditional forms of social corporatism developed in the post-war period in the framework of Keynesian macroeconomic policies. In contrast to neo-liberalism with its focus on free market policies, the concept of competitive corporatism is grounded on the idea that institutionalised co-operation between capital, labour and the state is a better and more efficient way to improve competitiveness.

<sup>6</sup> We draw here on concepts developed by Wright (2000) and Silver (2003).

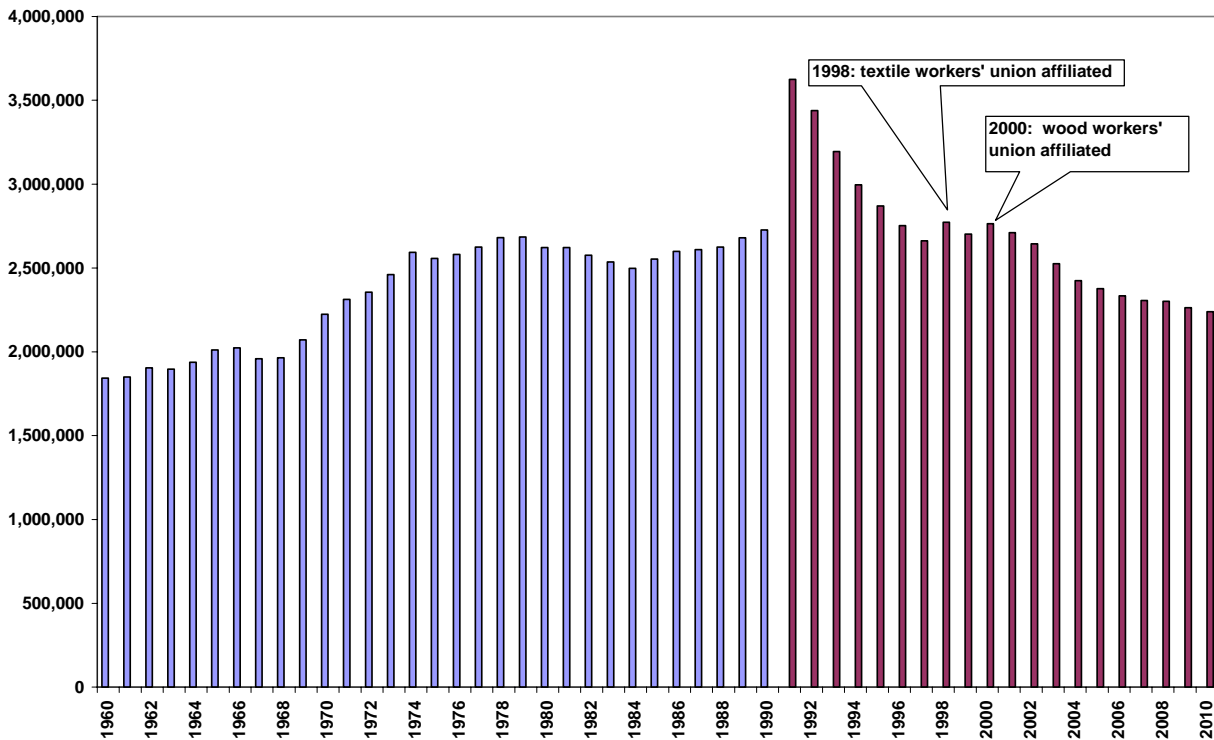


The single most important factor which shifted the overall balance of power in favour of employers was the rise of unemployment first in the mid 1970s and then following the economic recession of 1992 and the deindustrialisation of eastern Germany.

Unemployment peaked in 2005 when about 5 million persons were officially registered as unemployed. This was accompanied by an increasing casualisation of the workforce which found its main expressions in a substantial growth of fixed term contracts, marginal part-time jobs, temporary agency work and low pay jobs in general. Against the background of fewer job opportunities employees became increasingly sensitive to pressure from employers when faced with threats of withdrawal of investments, relocation and off-shoring.

Overall union membership declined in the 1990s. Although IG Metall membership had peaked in 1991, following unification, this was almost immediately followed by a severe decline largely due to the deindustrialisation and restructuring process in eastern Germany and continuous job losses in western Germany (figure 11). After 2005 the trade union intensified initiatives to turn the tide. In conjunction with a reviving economy the union had just managed to slow down the decline when it was hit by the crisis of 2010.

**Figure 11: IG Metall membership development 1991-2010**



Source: DGB; up to 1991 western Germany

The organisational strength of the union in the core of the car industry, however, could largely be retained although there has been a continuous shift in employment from manual workers to white collar engineers which poses new challenges to union organising.

The institutional strength of the union at workplace level is expressed by its dominance of the works councils. In 2010 about 72% of all works council members within the organisational domain of IG Metall were members of the union, some 28% were unorganised and a marginal 0.3% were members of the small Christian metal workers' union CGM (Christliche Gewerkschaft Metall).<sup>7</sup> Amongst the large car manufacturers the share of works council members organised in IG Metall was even higher reaching 88% in the 2010 elections (table 4).

<sup>7</sup> The CGM which is affiliated to the CGB does not play any significant role in the metalworking industries. It does not negotiate collective agreements. Instead employers and CGM resign after the agreements negotiated by IG Metall. In 2009 the CGM claimed to have a total of 91,000 members across all industries.

**Table 4: Car manufacturing: works council members, IG Metall shop stewards**

<b>Company</b>	<b>Works council election 2010</b>		<b>Shop stewards</b>
	members of WC	of which IGM	<b>2010</b>
Audi	90	77	1812
BMW	192	171	1626
Daimler	429	365	4897
Ford	89	78	1576
Opel	121	115	1184
Porsche	54	43	196
Volkswagen	294	279	7308
<b>Total</b>	<b>1269</b>	<b>1128</b>	<b>18599</b>

Source: IG Metall

There is some consensus that important ‘pillars of social partnership’ have crumbled since the mid 1990s (cf. Streeck and Hassel 2003; Bispinck and Schulten 2010). However, despite overall tendencies towards erosion the institutional framework has remained relatively stable in M+E in general and in the automotive industry in particular. A main reason for this is that in this sector union and works councils have retained substantial bargaining power (Dribbusch 2011 forthcoming). However, when the underlying balance of power in industrial relations changed in the 1990s collective bargaining and the established employment relations at company level took a new direction and gained new content. The union agenda became widely defensive when job security gained priority over most other issues on the bargaining agenda both at sectoral and at company level.

#### **4. Collective bargaining since 1990: context and developments**

The 1990s was a period of profound and unprecedented change in the German system of collective bargaining. The end of the Cold War delivered new markets and a range of fresh opportunities for employers. International competition was transformed and intensified by the neoliberal globalization of the economy. Once the short lived ‘unification boom’ ended in 1992, (western) Germany entered a severe recession. Workers and trade unions lost bargaining power as unemployment steadily mounted to previously unseen highs. Under the pressure of international competition and changing investors’ expectations, employers adopted a more aggressive approach to collective bargaining. Work organisation and production systems were subject to continuous change as companies underwent repeated waves of cost cutting and restructuring. This

process not only had profound consequences for employees' working conditions but also changed the tasks of workplace representatives. In the political arena, economic and social policy shifted to neo-liberal deregulation and liberalization (Dribbusch and Schulten 2008) resulting in additional challenges for the work of trade unions.

Trade union pay bargaining in the 1990s was characterised by two – markedly different – phases. Initially, strong economic growth allowed trade unions in West Germany<sup>8</sup> to negotiate substantial real wage increases. However, the onset of economic crisis in 1994 prompted the employers to undertake a major switch in their approach to bargaining – making use of the opportunity to effect a change that they long aspired to. From the mid-1990s, the course of bargaining was characterised by pay settlements that were sometimes well below inflation, the freezing and, usually time-limited, lowering of agreed standards, and the introduction of workplace-level 'opening clauses' permitting local deviations from collectively-agreed industry standards. The share of wages in national income fell to a historically low level.

In contrast, the trade unions were able to register some successes the field of retaining and securing employment. The 1994 bargaining round, for example, saw a number of sectoral settlements in which the scope for short-term reductions in working time were accompanied either by full or partial corresponding pay reductions. In return, companies committed themselves not to implement compulsory redundancies (see below).

In East Germany, following the agreed adoption of the basic features of the West German system of collective bargaining, the early-1990s was marked by a conflict over the pace at which agreed pay and working conditions were to converge with those prevailing in the West. This led to a major industrial dispute in the metalworking industry that culminated in an agreement on a phased process of convergence and the introduction of opening clauses (see below).

Developments in East Germany led to an acceleration in the erosion of the scope and integrity of industry-level agreements. In practice, in the 1990s this was manifested in breaches of agreed provisions, company exits both from collective agreements and

employer associations, and the proliferation of areas entirely outside the scope of collective bargaining, especially amongst small and medium-sized enterprises. Employer associations also found it more difficult to attract and retain firms, and ensure that they complied with collective agreements, and suffered increasing membership losses. Although sectoral agreements remained the key institution in the collective regulation of employment and wage standards, a gradual – but unmistakable – process of transformation in the collective bargaining system was under way, most clearly manifested in the growing differentiation and decentralisation of collectively-agreed provisions and standards as well their implementation at the workplace.

In 1999, the first red-Green coalition government composed of the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) and Alliance 90/The Greens (Bündnis 90/Die Grünen) had sought to organise a wide social consensus around measures to reduce unemployment and improve competitiveness through the establishment of an 'Alliance for Jobs'. In the field of collective bargaining, employer associations sought to use this process as a means to push through moderate wage increases. For their part, the trade unions hoped to use the Alliance as a forum in which they could lay the ground for negotiated agreements on retirement at 60 and 'phased early retirement' (Altersteilzeit), in which employees entered a period of part-time work before retirement.<sup>9</sup> In a compromise formulation, the national employer associations and trade union centre agreed on an 'employment-focused and long-term approach to collective bargaining'. Although the trade unions succeeded in negotiating pay settlements above the rate of inflation in the years up until 2004, these were far from fully exhausting the cost-neutral scope of productivity growth plus price increases over that period. And after 2004, the overall balance of collective bargaining deteriorated still further.

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<sup>8</sup> In this overview, 'West Germany' refers to those regions that made up the Federal Republic of Germany: 'East Germany' refers to regions that were part of the German Democratic Republic and which were established as constituent areas of the newly unified Germany from 1990.

<sup>9</sup> The scheme required employees to work for half their usual hours over the whole duration (up to six years). In practice, employees worked full-time for three years, on reduced pay, and then ceased to work, but remained in the scheme - drawing the same income as in the first phase.

Slow economic growth, which ultimately slipped into recession, served to put increasing pressure on the trade unions. Following the national elections in 2002, the Red-Green coalition adopted a radical change of course in the fields of labour market and social policy, crystallised in its Agenda 2010 programme. The profound differences over the future shape of the social security system and prospective organisation of collective bargaining took on the contours of a fundamental social conflict. Given a protracted labour market crisis and the evident failure of previous economic policy, the sources of the crisis were held to be the 'structures' and regulation of the labour market. The finger was directed in particular as the 'ossified' and 'obsolete' structures of the 'collective bargaining cartel'. The conservative parties (CDU/CSU), the Liberals (FDP) and some elements of the employers called for a change in the principle enshrined in the statute regulating collective agreements, under which the provisions of an industry-level agreement could only be deviated from where this was to the advantage of employees (Günstigkeitsprinzip, or 'favourability principle'). For its part, the Federal government announced that it would move to introduce statutory opening clauses. After many months of political controversy, in late-2003 the trade unions were able to fend off the threat of such legal intervention into the principle of free collective bargaining.

However, the employers took advantage of this climate to push through opening clauses in a large number of branches, some of which were far-reaching in scope. One landmark development in this area was the 'Pforzheim Accord' concluded in the metalworking industry in 2004: this allowed for agreed industry standards to be departed from at workplace level under certain circumstances. This triggered an intensification in the process under which the locus of bargaining had begun to move to the workplace, reinforcing developments already in train since the 1990s. Workplace agreements to retain operations and maintain employment, together with supplementary collective agreements that amended industry standards, developed into a commonly-used instrument that weakened the scope, influence and coherence of the system of industry-level bargaining. In many pay rounds it was the employer associations that led with their catalogue of demands on trade unions, the principal aim of which was to achieve an across-the-board lowering of agreed standards.

The steady erosion of the bargaining system was especially marked in the burgeoning low-wage sector. Pressed downward by the more stringent demands on the unemployed to accept a wider range of work (often below their skill level and previous pay), the deregulation of agency work, and the declining number of extended industry agreements, wages at the lower end of the income distribution began to break away. In response, and after a long and controversial internal debate, from 2006 member unions of the main trade union centre, the DGB, moved to a policy of calling for an extension of the Posted Workers Law to embrace additional sectors,<sup>10</sup> the formal extension of the lower grades specified in collective agreements to employments not directly covered by collective bargaining, and an hourly statutory minimum wage of €7.50.

However, the past decade was not only a story of stagnation or regression in the field of collective bargaining. In some areas, trade unions were also able to negotiate new and occasionally innovative collective agreements. This included the renewal of traditional pay structures in the metalworking industry and the public sector, together with agreed provisions on further training. The trade unions have also responded to changes in the state pension and the transition from work to retirement with collective agreements on occupational (company) pensions and phased early retirement. In some branches so-called 'demographic agreements' have been concluded.

Albeit with a slight lag, the financial and economic crisis has also had an impact on collective bargaining. Pay settlements since 2009 have dropped back markedly, and in many instances non-consolidated lump-sum payments have taken the place of permanent increases in pay scales. The 2010 pay round was most notable for agreements on job retention, especially in export-oriented branches such as metalworking, electrical engineering and electronics.

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<sup>10</sup> In Germany, legislation implementing the Posted Workers Directive has been used as a vehicle for setting binding minimum wages in sectors that have been brought within the scope of the law. These pay rates are negotiated by unions and employer bodies in the sectors, separately to the main agreement, and put into force by a Ministerial order.

## **5. Collective bargaining in M+E**

Collective bargaining in the metalworking industry in West Germany in the 1990s was dominated by two issues: dealing with the consequences of the economic and employment crisis that began in 1992, and the – associated – conflict over the future of the system of industry-level bargaining. Following German unification, the main issue in East Germany was the transfer of Western German bargaining arrangements and the adjustment of the level of pay and benefits, and convergence in such areas as working time. During the 2000s the conflict over further steps to shift the locus of bargaining to the workplace level was continued. The reform of the decades-old wage and salary agreements through the introduction of single-status pay structures from 2002 represented an important landmark in collective bargaining. This was joined by other innovations in the area of qualitative collective bargaining, such as salary conversion and deferral to finance company-based and other pension arrangements, training and development, and – in the wake of the financial crisis – workplace-based measures to retain jobs.

Over the past twenty years, agreed incomes have grown markedly in real terms. The overview indicates that annualised increases in agreed industry pay rates in the metalworking industry have generally exceed price inflation – with the exception of years of acute economic crisis (1993-4, 2001, and 2010/2011) (table 5). Taken over the whole period, real agreed pay rates have risen by some 28 per cent, equivalent to an real increase of 1.4 per cent, with real pay growth in the 1990s running at about double the rate seen in the subsequent decade.

However, when these increases in agreed pay are set against the cost-neutral scope or ‘margin’ for distribution, which represents the sum of price increases and the aggregate rise in productivity, the picture changes considerably. In most years, agreed increases did not exhaust this scope. It should be borne in mind, however, that weekly working hours fell from 37 to 35 in the first half of the 1990s, with no loss of pay, which was equivalent to an effective increase in (hourly) pay of 5.7 per cent. This is not factored into the increases cited in Table 5. A detailed overview on the provisions on pay agreed in the bargaining rounds in M+E can be found in table A1 in the appendix.



**Table 5: Aggregate economic development and bargaining data for the metalworking industry: 1990-2011**

Year	Real GDP	Consumer prices	Productivity (per employee hour)	'Distributive scope' (Col 2 + Col 3)	Annualised nominal agreed pay increases	Real pay increases (Col 4- Col 2)	Gap between nominal pay rises and distributive scope (Col 5- Col 4)
	1	2	3	4	5	6	7
1990	5.3	2.7	3.5	6.2	5.4	2.7	-0.8
1991	5.1	3.6	3.5	7.1	6.8	3.2	-0.3
1992	2.2	4.1	2.5	6.6	5.1	1.0	-1.5
1993	-0.8	3.7	1.6	5.3	3.6	-0.1	-1.7
1994	2.7	2.8	2.9	5.7	1.9	-0.9	-3.8
1995	1.9	1.7	2.6	4.3	5.1	3.4	0.8
1996	1.0	1.4	2.3	3.7	2.7	1.3	-1.0
1997	1.8	1.7	2.5	4.2	2.0	0.3	-2.2
1998	2.0	0.9	1.2	2.1	1.8	0.9	-0.3
1999	2.0	0.6	1.4	2.0	4.1	3.5	2.1
2000	3.2	1.4	2.6	4.0	2.5	1.1	-1.5
2001	1.2	1.9	1.8	3.7	1.7	-0.2	-2.0
2002	0.0	1.5	1.5	3.0	3.6	2.1	0.6
2003	-0.2	1.0	1.2	2.2	2.4	1.4	0.2
2004	1.2	1.7	0.6	2.3	2.3	0.6	0.0
2005	0.8	1.5	1.4	2.9	1.9	0.4	-1.0
2006	3.4	1.6	3.1	4.7	2.6	1.0	-2.1
2007	2.7	2.3	1.0	3.3	3.8	1.5	0.5
2008	1.0	2.6	- 0.2	2.4	2.7	0.1	0.3
2009	-4.7	0.4	- 2.2	- 1.8	3.6	3.2	5.4
2010	3.6	1.1	1.0	2.1	0.7	-0.4	-1.4
2011	3.5	2.4	2.7	5.1	1.6	-0.8	-3.5

Source: Destatis, WSI-Tarifarchiv

### *Overview of bargaining rounds 1991-2008*

Economic development in West Germany remained very positive in the early-1990s. Growth boomed, corporate profits were robust, and employment fell, if only modestly. The metalworking trade union IG Metall not only succeeded in negotiating substantial rises in agreed pay rates but also the phased move to a 35-hour week by 1995 with no

loss of pay. The 'price' of this was the conceding of a shift in the regulation of the organisation of working time to workplace level. Between 1991 and 1993, IG Metall was able to win pay increases that succeeded in largely fully exploiting the cost-neutral scope for distribution. In the same period, the project of reforming agreed pay structures in the industry was got under way. IG Metall's proposal for collective bargaining reform ('Tarifreform 2000') envisaged the modernisation of the collective agreements that regulated pay grades and remuneration arrangements that had been in place since the 1960s and 1970s. Its aim was to complete this by the mid-1990s, based on a recognition shared by the employers about the need for reform.<sup>11</sup> However, the 1992/1993 recession, which had a particularly severe impact on the metalworking industry leading to a sharp rise in unemployment in this sector, meant that these ambitions had to be put on the back burner.

Collective bargaining then became dominated by crisis management on the issue of employment and efforts to resist employer demands for a lowering of agreed standards. In this context, the agreement at Volkswagen in autumn 1993 was of major significance for the rest of the metalworking sector. Faced with the prospect of up to 30,000 redundancies, in November of that year Volkswagen and IG Metall agreed a four-day week (of 28.8 hours) combined with a two-year 'no redundancy' deal. Pay was reduced by 20 per cent, but regular monthly incomes were maintained by redistributing annual bonuses across the whole year.

The new employer approach to collective bargaining was especially evident in the metalworking industry after 1994. This ranged from the open calls to lower agreed standards, sustained criticism of the principle of the industry agreement, a changed strategy on negotiations, and an aspiration to achieve a much greater degree of differentiation in negotiated outcomes, with various forms of compensation where employee concessions were made. They also threatened an 'exodus' of their members from the employer associations if their demands for massive cost reductions and further flexibility and scope for derogation from agreed provisions were not granted.

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<sup>11</sup> IG Metall's proposals embraced five areas: achieving a new and uniform system of pay determination and performance appraisal covering both operatives and technical/commercial employees; configuring work and technology to be sustainable in both human

In the end, the two sides agreed to re-instate the previous holiday provisions, which the employers had given notice of terminating, concluded a moderate pay rise, which was below inflation, and a specific agreement on employment security based on the four-day week principle previously agreed at Volkswagen AG. This allowed the parties at workplace level (that is, management and works councils) to conclude a voluntary workplace agreement reducing the working week to 30 hours, either with a corresponding cut in pay or a pay reduction that did not fully offset the cut in hours.

1995 saw a temporary change in mood. The lowest point of the downturn seemed to have been passed, and there were initial signs of recovery. IG Metall took this opportunity to make up for the preceding years' setbacks in the pay field. The subsequent dispute with the employers swiftly escalated into a 14-day strike in the Bavarian bargaining region, following which IG Metall was able to achieve pay increases that, for the first time in several years, exceeded the 'distributive scope', as well as successfully thwarting employer demands for offsetting cuts in other areas.

In 1997, the employers were eager to make up for the 1995 setback, and in particular to make progress towards their aim of lowering non-wage labour costs and making annual agreed additional payments (holiday and Christmas bonuses) dependent on company performance. In addition, the employers wanted to make use of the recently-introduced statutory option of reducing sick pay (which is paid by employers in Germany) from 100 per cent of previous earnings to 80 per cent. Backed by massive protests and spontaneous stoppages, IG Metall was able to resist this change, but was compelled to pay a price in the form of having to agree a cut in holiday and Christmas payments, and lower agreed pay increases for 1997 and 1998.

Negotiations on the introduction of an agreed early retirement scheme, that began in 1997, were based on similar principles to those that underlay the employment security agreement. The 1998 agreements on phased early retirement offset the financial penalties that employees were obliged to incur if they chose to retire earlier under the state scheme, and used this as a means of making early retirement a more attractive option.

In the 1999 pay round, IG Metall achieved a settlement that fully exhausted the cost-neutral distributive scope (inflation plus productivity increases) under its slogan 'No More Moderation!'. The employer demand for pay increases to be linked to company performance, and with this a shift of effective decision making on pay to company level, was successfully resisted.

The core issue in the 2000 bargaining round – alongside a pay demand – was the campaign for retirement at 60, which IG Metall had proposed in 1998 as a project intended to retain and create jobs. The employers flatly rejected the model from the outset and, instead, argued for flexible company-based solutions and development of the existing phased early retirement scheme. Although the Federal government's initial response was positive, it nonetheless rejected the possibility of any form of public contribution. Following what proved to be difficult negotiations, the two sides agreed a two-stage pay increase together with a new collectively-agreed 'employment bridge', under which 'older workers' could enter the phased early retirement scheme for up to six years, with limited financial compensation for the reduction they would later incur for taking their state pension before normal retirement age.

In the 2001 bargaining round, and after a series of large-scale token strikes, IG Metall in the Baden-Württemberg region negotiated an agreement on training that provided for an individual right to a regular discussion with the employer to establish the employee's training needs and organise any consequent training, the costs of which were borne by the employer. Employees with at least three years' service in a company had a right to up to three years' unpaid leave to undertake further training and skill acquisition. The two sides also set up a joint body to promote further training.

In the 2002 bargaining round, IG Metall's main aim, alongside a general pay increase, was to press ahead and finalise agreement on the reform of the grading structure and reward system in the industry. Agreement was only reached after three months of negotiations, widespread token industrial action and ultimately a full ten-day stoppage. In addition to pay increases, the agreement also initiated the move to a new pay and grading structure to begin during 2005-2008.

The determination on the part of some employers to reject compromise in the old style was particularly marked in eastern Germany where unions were comparatively weak and bargaining coverage low. This was probably underestimated when in 2003 IG Metall called strikes both in the eastern German steel industry and in M+E with the aim of adjusting working times to the western German 35-hour week (Dribbusch 2003, Raess 2006). In the small steel industry a compromise was agreed after 4 days, but the employers in the metalworking industry of Saxony were determined to defeat the union. 11,500 union members took part in the strike ballot and 9,600 voted in favour of the strike (Bispinck and WSI-Tarifarchiv 2004:18) but there were considerable problems with strike breakers. To make matters worse the strike was contested even within IG Metall, particularly when western German car manufacturers started closing down production due to a lack of supplies. After four weeks the strike ended without a new agreement being reached. It was one of the bitterest defeats in the union's history.

The 2004 bargaining round in western Germany which followed was not only on pay but on working time flexibility and an extension of opening clauses (cf. special explanations below). Although the trade unions were able to prevail in the political conflict over the issue of the principle of free collective bargaining and proposals to change the legal basis for the scope to deviate from industry agreements in the form of 'opening clauses' that broke out in the political arena in 2003, the employers then set about using the atmosphere engendered by this debate to press for a further relaxation of the industry agreement in the 2004 bargaining round – and registered some notable successes. Agreement was reached on increased scope to lengthen working hours, with an option for weekly hours to be extended to 40 for up to 50 per cent of the workforce in workplaces with a large share of highly-skilled employees. Most importantly there was also agreement on a general opening clause that allowed a time-limited deviation from agreed standards in order 'to achieve a sustained improvement in the development of employment'. Concretised in the 'Pforzheim Accord', this provision became a landmark in the recent history of collective bargaining in Germany.

The focus of the 2006 bargaining round was on pay, with the final agreement providing for a lump-sum payment and a subsequent rise in agreed rates with a duration of 13

months. There was also agreement on individual training rights based on the arrangements negotiated in 2001 in Baden-Württemberg.

In the 2007 bargaining round, IG Metall demonstrated that it was still capable of achieving a settlement that secured pay increases in its core organising sphere providing for substantial real increases in pay for its members and, moreover, which ran counter to the employers' core objective of negotiating an increase that was below that of the previous year. One major factor in this was the high degree of member mobilisation, expressed in the large number of token stoppages that took place once the agreed 'peace clause', that provided for a four-week ban on industrial action by either side following expiry of the previous pay agreement, had come to an end. However, the employers did succeed in introducing an additional – albeit – small step towards further scope for varying agreed pay through the inclusion of an opening clause covering one aspect of the settlement.

The critical stages of the 2008 round in the metalworking and electrical industries were dominated by the onset of the financial crisis. While employee expectations and the formulation of the claim within IG Metall had been shaped by the preceding phase of robust growth, and strong corporate profitability, in the sector, preparations for negotiations were overshadowed by the dramatically mounting volume of bad news emanating from the financial markets. Although the mid-November settlement provided for a real increase in pay – after four rounds of negotiations and large-scale token strikes – the encroaching crisis, with its increasing impacts on the real economy, meant that this lagged some way behind *initial* aspirations. The 2010 bargaining round was marked by the Great Recession and the issue of job security. It will be dealt with in more detail below.

### *The debate on the future of sectoral collective bargaining*

Employers and unions in the metalworking industry had widely divergent conceptions of the future of the status and functioning of industry-level agreements: during the 1990s these differences dominated the entire collective bargaining discussion, and also extended to other branches. The main concern of the national employers' association, Gesamtmetall, was both to lower agreed standards and achieve a fundamental

reconfiguration of the system of collective bargaining, concretised in its idea of a 'pyramid model' in which only a small number of basic parameters would be subject to mandatory regulation at industry level. Alongside this much reduced set of basic agreed terms, they argued for an increased number of provisions that would be fleshed out at workplace level, and which, as a consequence, would not be fully specified at industry level. A third level would consist in agreed, but non-binding, joint recommendations. Gesamtmetall summed up its vision for the future of collective bargaining in November 1997 in its 'Frankfurt Declaration', which included the following points: an opening clause allowing workplaces to deviate from industry-level provisions to retain jobs; more flexible working hours, to be achieved through an agreed working time 'corridor' of 30 to 40 hours; performance-related elements of reward at workplace level; and new instruments for resolving conflicts during bargaining.

IG Metall rejected these proposals, and in 1997 embarked on a debate on how to stabilise and develop the system of industry-level agreements at its collective bargaining conference. This led to a heated discussion as to the appropriate response to the indisputable signs of erosion in the industry agreements in the metalworking industry. Some elements within IG Metall argued for the inclusion of formally specified 'hardship clauses' in collective agreements, which would include the requirements for the triggering of such provisions and the procedures to be followed. Others argued that it was sufficient to keep to the previous practice, based on more general agreed provisions and with a reference to the corresponding regulations set out in the Collective Bargaining Act that provides the legal framework for collective agreements. There were also different proposals around the issue of the development and structural reform of industry-level bargaining. One suggestion was for a system of agreed 'modules' or 'building blocks' which would offer companies a range of options in different areas of employment regulation and which would be available in addition to existing negotiated provisions. A further approach argued for supplementary workplace or company agreements that would contain provisions tailored to workplace requirements as a complement to the industry-level agreement.

### *Opening clauses in the metalworking industry*

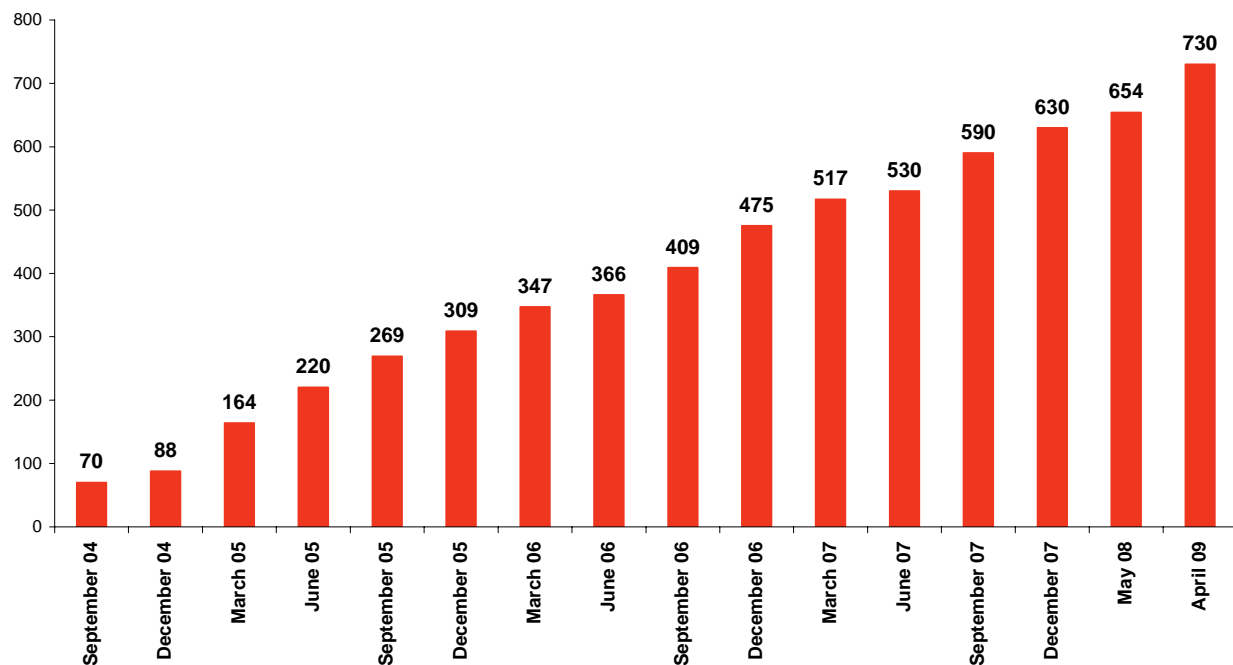
In the metalworking industry deviations from regional sectoral agreements became increasingly widespread during the 1990s (Haipeter and Lehndorff 2009: 33ff.). While in East German metalworking the existence of formalised hardship clause offered a defined procedure to regulate deviations at company level, in West Germany regional agreements contained only very general 'restructuring clauses' with no procedural requirements. As a result, a 'grey area' of company deviations emerged and grew, some elements of which were backed by sectoral agreements, but in other areas with a complete lack of a formal agreed foundation. Because of the lack of transparency and central trade union oversight of these company-level developments, there was also a lack of empirical data on real extent of such deviations.

The situation changed with the adoption of the 'Pforzheim Accord' in 2004, which led to the establishment of common rules and procedures for deviations as well as to a much closer control of these process by the central office of the trade union and the employers' association. Since then the use of opening clauses and the conclusion of derogation agreements at company-level is relatively well-documented. Both Gesamtmetall and IG Metall have published data on developments, with some differences that are probably attributable to the large number of instances in which opening clauses have been used and the variety of types of deviation from the sectoral agreement.

According to data provided by Gesamtmetall there was a steady rise in company level deviations following the Pforzheim Accord (Figure 12). While in September 2004 there were only 70 cases reported by Gesamtmetall, the number increased to 730 by April 2009.



**Figure 12: Number of company-level deviations from sectoral agreement in M+E, September 2004-April 2009**



Source: Gesamtmetall

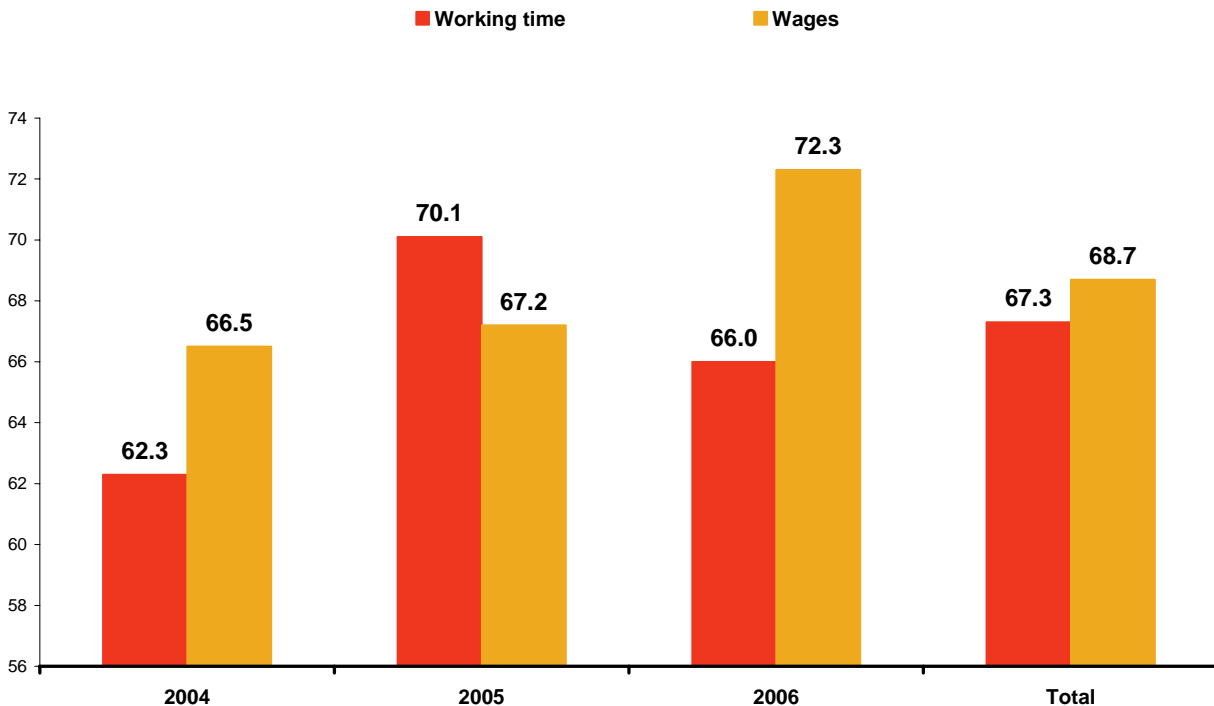
According to a study by Haipeter (2009a, 2009b. see also Haipeter and Lehdorff 2009), which mainly draw on IG Metall figures, between 2004 and 2007 the bargaining parties in the metalworking industry concluded 850 derogation agreements at company level, which is equivalent to about 10 % of all companies and about 50% of all employees covered by the sectoral agreement in metalworking. More recent figures provided by IG Metall show that the number of new derogation agreements was 885 in 2008 and 743 in 2009 (cf. table 6). In sum there were 3,408 deviation agreements concluded between 2004 and March 2010. Since the derogation agreements are usually concluded for a limited period of time, many will have already expired. In March 2010 IG Metall registered 1,060 valid derogation agreements either based on provisions stipulated by the Pforzheim Accord or other opening clauses.

**Table 6: Derogation agreements in German metalworking 2004-2010**

	New Agreements	Expired
2004-2007	850	
2008	885	615
2009	743	512
2004-03/2010	3,408	
<b>Valid agreements</b>		
03/2010	1,060	

Source: Haipeter (2009), IG Metall

The key topics addressed by derogation agreements were pay and working time: between 2004 and 2006 about two-thirds of all agreements provided for company-level deviations on these two issues (Figure 13).

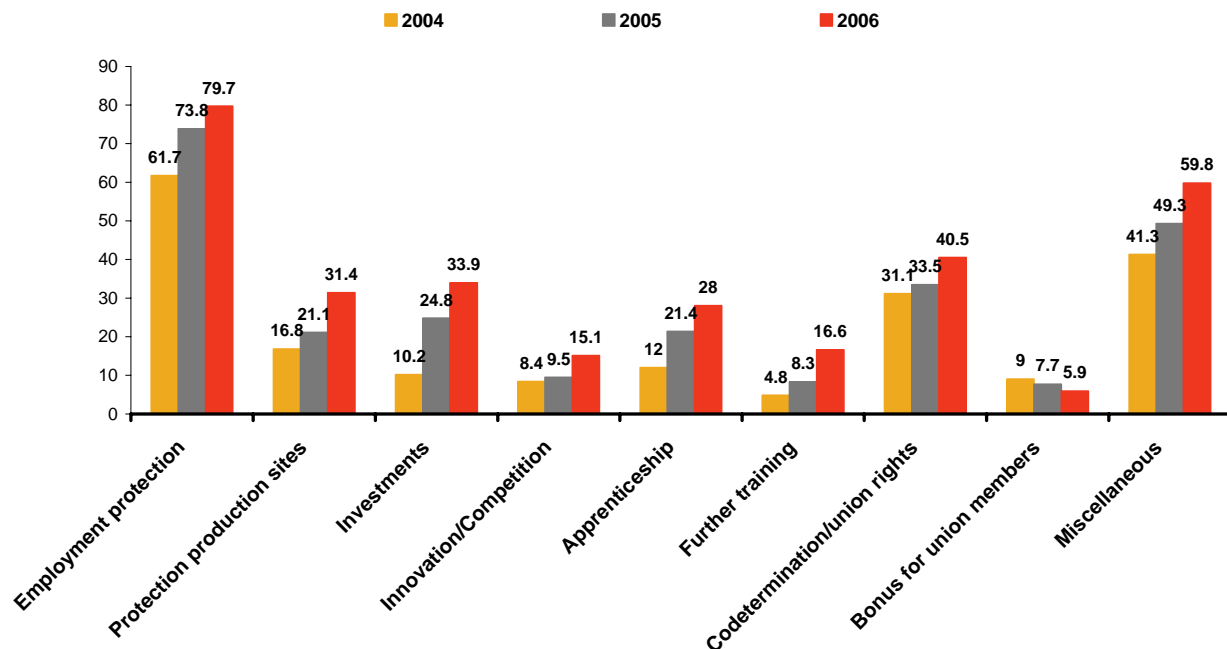
**Figure 13: Issues addressed in derogation agreements in German metalworking 2004-2006**

Source: Haipeter and Lehndorff 2009, 37

In exchange for employee concessions on pay and working time, employers have usually had to offer a quid pro quo. By far the most important issue for such 'counter concessions' is job protection, whereby the employer makes a commitment to refrain from compulsory economic terminations during the lifetime of the derogation agreement (figure 14). In 2006 4 out of 5 agreements contained a provision on job security. Other

important employer concessions have included extensions of workers' and unions' co-determination rights, and commitments to undertake new investment and retain operations at existing sites. Between 2004 and 2006, a rising proportion of derogation agreements have entailed such employer commitments in return for deviations from agreed terms.

**Figure 14: Share of counter-concessions of employers by issue in all derogation agreements in M+E, 2004-2006**



Source: Haipeter and Lehndorff 2009, 39

A detailed overview on agreed provisions on flexibility and opening clauses in the metalworking and electrical industries is presented in the appendix to this paper. In the following section we want to take a closer look at company level bargaining in the automotive industry and in particular at the emergence of so-called Pacts on Employment and Competitiveness (PECs) in the car industry.

## **6. Concession bargaining: the case of the automotive industry**

IG Metall's responses to restructuring in the automotive industry are intertwined with the process of decentralisation described above. The Pforzheim Accord was partly an attempt by IG Metall to regain a certain regulative control over company-level developments not only in the car manufacturing. Works councils had experienced increasing pressure from employers to make concessions on pay and conditions and had already agreed to a large number of company-level agreements which involved a wide spectrum of concessions in return for limited job guarantees. The latter development first won prominence in the car industry where it was a reaction to major restructurings which had shaped the industry since the mid 1980s.

### *Restructuring in the automotive industry*

In the mid 1980s car manufacturers had been hit by overcapacities and international competition had been considerably heightened under the influence of the success of the Japanese car manufacturers. Restructuring, which up to the 1980s had predominantly focused on the introduction of new technology in manufacturing was now dominated by the adaptation of largely Japanese concepts of production which gained prominence under the headings of 'lean production' and 'just in time' manufacturing (Jürgens 2005; Womack et al. 1990). After 1993 the German car plants underwent several waves of restructuring (cf. Jürgens and Krzywdzinski 2006; Haipeter 2009). Decision making within car companies was centralised and management had to fulfil intensified expectations from share holders with regard to returns on capital. At the same time the internal organisation was decentralised by way of creating business units which had to compete as so-called profit centres not only with external suppliers but with other business units within the organisation. Every operation came under scrutiny in order to find ways of cost cutting. Suppliers felt the increasing pressure from manufacturers to lower prices (Jürgens and Krzywdzinski 2008, 152). Domestic outsourcing of operations, an extended flexibilisation of production and a reorganisation of the production chain were further elements of this process (Jürgens/Krzywdzinski 2008, 153; Haipeter 2009, 55).

An important factor was the internationalisation of production (Haipeter and Banyuls 2007). Model components were standardised in order to combine the diversity of models with economies of scale and, most importantly, to increase the flexibility between different production sites. The production sites and also certain departments were domestically and internationally put in competition with each other. As international benchmarking became the norm, plants had to bid for future investments. This triggered management's demands for concessions on the part of workers in order to maintain the internal competitiveness.

When faced with these challenges IG Metall and works councils in the car industry felt trapped in a dilemma. They shared in principle the employers' economic objective of maintaining and improving international competitiveness but had much more difficulties than in previous decades to deal with the consequences.

#### *'Pacts for employment and competitiveness' in car manufacturing*

Confronted with overcapacities and restructuring in the car industry the unions and works councils returned to approaches which had helped to manage the structural crisis of the steel and ship building industries in the 1970s and 1980s. Seeing no alternatives, unions and works councils had accepted the need of employers to adapt to a changing economic environment as an inherent necessity of capitalism and a prerequisite to maintaining competitiveness (cf. Esser 1982; Candeias and Röttger 2009). What they demanded was to be involved in the managing of the crisis and to find solutions which avoided forced redundancies. The result was a process of so-called 'socially acceptable job cuts' (sozialverträglicher Beschäftigungsabbau) which drew on earlier agreements in the German coal industry. Its main instruments were extensive early retirement schemes, re-training programmes and the placement of workers in so-called job creation companies. In the car industry of the 1990s unions and works councils set similar priorities. With regard to high unemployment the avoidance of forced redundancies was even more a priority and the *conditio sine qua non* for all agreements which combined measures to cut costs with limited job guarantees. Employers on the other hand had to weigh the costs of unilateral crisis solutions against the advantages of a more consensual approach.

In 1995, the IG Metall advocated a so-called 'Alliance for Jobs' whereby it offered wage restraints in exchange for job guarantees. The national attempts to establish such tripartite alliances which were later labelled 'Alliances for Jobs, Training and Competitiveness' finally failed in 2003. The label, however, was attached to a great number of company-level arrangements to manage the 'necessary modernisation process' in a 'socially acceptable' manner. Following Seifert and Massa-Wirth (2005) we summarise any company-level agreement concluded since 1993 which refers to cost cutting and job security under the overarching term 'Pact for Employment and Competitiveness' (PEC) although most of these agreements have different titles.

Since 1993 PECs have spread to all of the major car companies. Most of them were concluded between the company works council and management, some of them, in particular since 2004, required the explicit and formal consent of the union. Jürgens and Krzywdzinski (2006) identify three waves of PECs. A first wave from 1993 to 1996 can be regarded in the context of the car crisis – the 1993 Volkswagen agreement described above is the best known in this period. A second wave can be observed between 1997 and 2001 and third one between 2004 and 2006.

As the reduction of the work force was one objective of employers, various schemes of early retirement played a prominent role to handle the various restructuring processes after the mid 1990s (Jürgens and Krzywdzinski 2006, 44-46). In the course of the time, however, two problems arose. First the government, which had over a long period effectively subsidised these instruments by adjusting the social security system in a way that made early retirement especially attractive to both employers and employees (cf. Streeck 2009: 56-57), decided to discontinue these subsidies.<sup>12</sup> Secondly with returning waves of restructuring the number of employees eligible for earlier retirement was substantially reduced and companies partially lost out in letting the most experienced workers go.

In general the PECs were a specific form of concession bargaining whereby the employees' side accepted the management's objective of cost cutting in return for the

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<sup>12</sup> These problems increased when the unification process proved to be much more costly than optimists had hoped for and accelerated when governments were confronted with neo-liberal demands for cuts in taxes and social security expenditures in order to maintain the overall competitiveness of the German economy.

exclusion of forced dismissals and limited job guarantees in the form of promises for investments or the fixture of certain employment levels. The PECs differ substantially in the degree to which these guarantees and promises can be considered as binding.

The duration of the agreements and thus the time span for which these limited guarantees were given was step by step expanded. Whereas the first agreements ran from between two to three years, later agreements - in particular those in the years following 2004 had a duration of between five and seven years.

### *The concessions*

A very important element in almost all agreements is a substantial increase in working time flexibility in a wide range of different forms. Sometimes working times are extended and some times they are reduced - in both cases usually with only limited wage compensations. In the first wave of agreements during the car crisis of the mid 1990s a reduction of working time was predominant whereas in later agreements, in particular following 2004, employers insisted on an extension of working times. Provisions for so-called working time corridors which allow the scheduling of working time according to the actual demand of production are prominent in most PECs. Long-term working-time accounts allow employees to accumulate hours which can be used either for early retirement or for compensation in periods of short-time working. The advantage for management lies in increased flexibility and the avoidance of over-time bonuses.

Concessions on pay are a further element of PECs. They too can take various forms. Some pay cuts were achieved by introducing longer working times without pay compensation. A frequently found instrument is the provision to reduce on-top payments or cuts in extra bonuses where those existed. It was estimated that at the beginning of the 1990s the effective income of workers in car manufacturing was between 30% and 40% above the agreed minimum levels of the sectoral collective agreements in metal manufacturing (Jürgens/Krzywdzinski 2006, 6). By 2006 this was down to an on-top level of between 15% and 20% (ibid). By 2010 in car companies like Daimler and Opel the on-top payments had been almost completely absorbed. A further means to achieve a relative lowering of wages was that pay rises which had been agreed in the annual bargaining rounds for the metal working industry were only partially applied to the car

company concerned. Finally in some cases, such as for example VW, the union agreed to the introduction of special lower pay schemes for new entrants - thus effectively introducing a two-tier wage system. More often existing staff received some guarantees concerning existing income levels which did not apply to new recruits.

As early as 1997 Volkswagen established its own temporary work agency which allowed greater employment flexibility at lower costs due to different pay levels and at the same time served as a buffer for employees whose jobs were to be cut. Provisions to regulate and partially limit the employment of temporary agency staff appear in a number of PECs between 2004 and 2006.

In line with Rehder (2002) we regard PECs as 'coalitions for competitiveness'. They can be considered as a specific form of 'productivity coalitions' (Windolf 1989) which follow a tradition of company level corporatism which is favoured by the German system of co-determination. PECs are compromises against the background of a shifted balance of power. Kädtler and Sperling (2001, 291) see the sheer fact that a PEC has to be concluded as a signal for a deterioration of the terms of trade for employee representatives. They differ from similar agreements made in the USA by the degree to which employers engage in job and investment guarantees, albeit limited (Rehder 2003; Seifert and Massa-Wirth 2005). The fact that the PECs, despite their structural imbalance, are not totally one-sided agreements points to the institutional power of works councils and not least to the remaining disruptive potential of car workers.

## **7. Crisis management 2008-2010: 'No dismissals'**

The financial crisis of autumn 2008 in conjunction with an economic slump in the car industry rapidly hit the core of German export industries. Incoming orders, already in decline since the second quarter of the year, now dropped sharply and there were no signs of any immediate recovery. Faced with a crisis unprecedented in post-war years the union was alarmed that this could result in a de-industrialisation process which would hit its core constituency and substantially weaken the organisation. IG Metall reacted in December 2008 with an action programme, the title of which was: 'No dismissals in 2009', thus signalling its top-priority (IG Metall 2008; cf. also IG Metall 2009a). The union pointed to the existing collectively-agreed tool kit for safeguarding



employment such as opening clauses or working-time corridors. However, given the dimension of the crisis, IG Metall was convinced that the employment problem could not be adequately tackled at company level without additional action by the government. An immediate measure demanded by the union was therefore the extensive use of short-time work. It welcomed the fact that the government had extended the legal duration for short-time work to a maximum of 18 months and demanded that employers be relieved, at least partly, from social security contributions for short-time workers. With a special focus on the car industry the union - in line with the business association of the car industry VDA, promoted the car scrap bonus mentioned above as an immediate means to bridge the slump in demand for new cars.

As for the wider implications of the crisis the union called for the creation of a public fund of 100 billion Euros which should be financed by a compulsory loan on high incomes. Furthermore it demanded measures to tackle the credit crunch which negatively affected employers' ability to make investments. The union also called for a repeal of the almost total deregulation of temporary agency work which had taken place under the so-called 'red-Green' government in 2002 and demanded that short-time working should be extended to temporary agency firms. Finally the union demanded an extension of board-level co-determination. The establishment, relocation and closure of a production site should require a two-third majority in the supervisory board thereby giving employee representatives effectively a right to veto plant closures. This demand aimed at a generalisation of the far-reaching co-determination rights which already existed at Volkswagen.

### *'Crisis corporatism'*

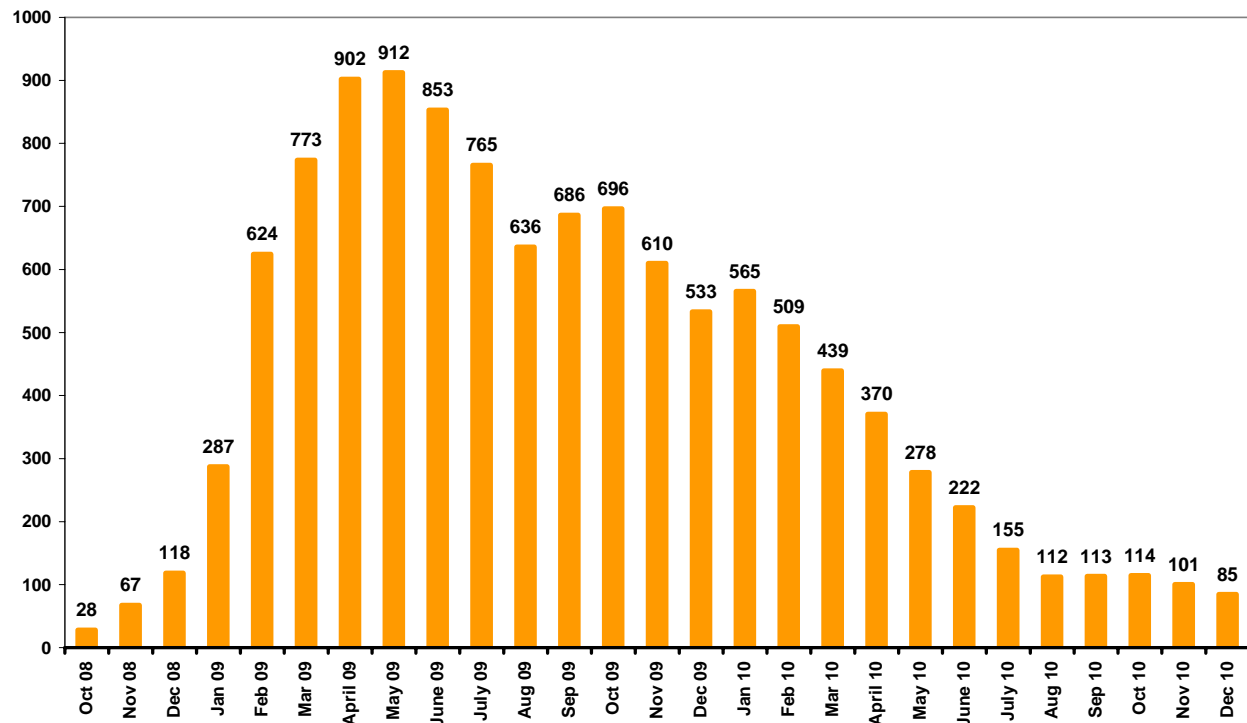
The union movement had been increasingly sidelined in the final years of the red-Green government since 2003. The Grand coalition government of social democrats and conservatives which came to power in 2005 continued this policy. It neglected unions concerns and extended the pension age from 65 to 67. However, as the crisis escalated in late autumn trade unions in general and IG Metall in particular enjoyed a new level of esteem which was displayed by employers and government when it saw itself invited into a tripartite crisis management.

The political constellation favoured a tripartite approach which can be described as 'crisis corporatism' (Urban 2010). The crisis hit the core of the German export economy and with the M+E sector the best organised union stronghold in Germany. The Grand coalition was facing national elections in autumn 2009 and neither party could have an interest in unemployment figures jumping to unprecedented highs. To this was added the fact that in autumn 2008 it was less than clear whether the crisis was manageable at all or whether it might result in unforeseeable social turmoil. In this situation IG Metall, which was still a relevant power in M+E, gained new recognition - not least because it might serve as a possible mediator in times of labour unrest. Finally employers and IG Metall shared an interest in tackling the credit crunch, lessening the financial burden of short-time working for employers and in avoiding mass dismissals. Employers expected the economy to recover and had no immediate interest in dismissing their core of skilled workers (cf. Möller 2010, Ohl 2011).

In line with the demands from both parties in the car industry the government eventually introduced the car scrap bonus at the beginning of 2009 and eventually prolonged the scheme when the first funds expired. This bonus effectively subsidised demand, especially for small cars.

The more important government measure to avoid redundancies, however, was short-time work. At a political level, employers' associations and trade unions together successfully lobbied the government to extend the possibilities of short-time work which allowed companies to reduce labour costs without making workers redundant while at the same time the workers received state benefit for the time not worked. IG Metall and employers in M+E welcomed the fact that the use of short-time work was first to be extended to 18 months and finally in May 2009 made possible for up to 24 months. In May 2009 some 912,000 workers, that is almost one in four employees in M+E, was on short-time work (figure 15).

**Figure 15: Short-time workers in M+E industries: monthly development October 2008 - December 2010, in 1,000s**



Source: Federal Employment Agency, own calculation

As an additional measure the Federal Employment Agency relieved employers from social security contributions for short-time workers. The logic behind short-time work; that it considerably cuts working time while minimising costs for employers and limiting income losses for employees, became the recurrent theme of the crisis management in M+E.

The 2010 bargaining round, which took place in the second year following the outbreak of the financial crisis, bore all the hallmarks of its deep economic impact. And although pay settlements had begun to drop back in the previous year, the pressure of the continuing crisis meant that they took a further fall in 2010. Many pay settlements in 2010 saw agreement on non-consolidated lump-sums which, although sufficient to offset the generally low level of consumer price increases, meant the employers gained from the fact that basic rates were effectively frozen for the future.

Unprecedented in its bargaining history IG Metall decided to enter into the 2010 bargaining round without having tabled a specific pay demand and to start negotiations

long before the existing agreements were to expire. Instead, its main priority was to maintain employment. This was realised through an agreement dubbed 'A future in work', which would be applied in workplaces where employees had been working on short-time, under the statutory short-time scheme, for at least a year. This agreement provided for a form of additional agreed short-time working and a subsequent reduction in working time, and was set to run until the end of June 2012, after which the provisions would definitively expire.<sup>13</sup> The essence of the agreement was to create a range of instruments that could be used to retain employees in work using a combination of statutory and agreed provisions. In a joint initiative with the employers' association Gesamtmetall IG Metall called for additional government subsidies to keep extended short-time work attractive for employers. Although the collectively agreed measures to extend short-time work did not play a significant role in the aftermath of the agreement because the economy recovered more quickly than the bargaining parties had expected, the way the agreement was reached highlighted a certain rapprochement of employers.

The spirit of this 'crisis corporatism' also found evident expression in local coalitions between works councils, unions, parts of management and local politicians to jointly negotiate with the state, in order to get money from the 'recovery funds'. In many companies existing PECs were renegotiated under new terms and conditions. The existing limited guarantees to safeguard employment levels had *de facto* become obsolete. Employers demanded new concessions from employees if forced dismissals were to be excluded during the crisis. An example is the case of Daimler. In April 2009 the works council concluded a new PEC although the existing agreement signed in 2004 excluded forced redundancies until the end of 2011. The new agreement of April 2009 was meant to save the company 2 billion euros in costs.<sup>14</sup> Part of the agreement was a limited cut in working time and pay for all employees who were not covered by short-time work, cuts in collectively agreed on-top pay for short-time workers and a postponement of the collectively agreed annual pay increase by five months. In exchange for that the company agreed to exclude forced dismissals until June 2010.

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<sup>13</sup> Unless otherwise agreed, collective provisions in Germany continue in force until replaced by a fresh agreed provision.

<sup>14</sup> cf. Marco Dalan, »Daimler spart zwei Milliarden beim Personal « in: *DIE WELT*, 29 April 2009, Nr. 99, p. 11.

In other cases new 'employment pacts' were concluded. The most prominent example was the car supplier Schaeffler, a large family business which was renowned for its distance to IG Metall. In spring 2009 it sought the cooperation with the union in order to get government aids to save its business. In exchange for the support of the union the company agreed for the first time to introduce board-level co-determination. Finally an agreement to safeguard employment was concluded which - like others- excluded forced dismissals for a limited period of time in exchange for cost-saving measures.

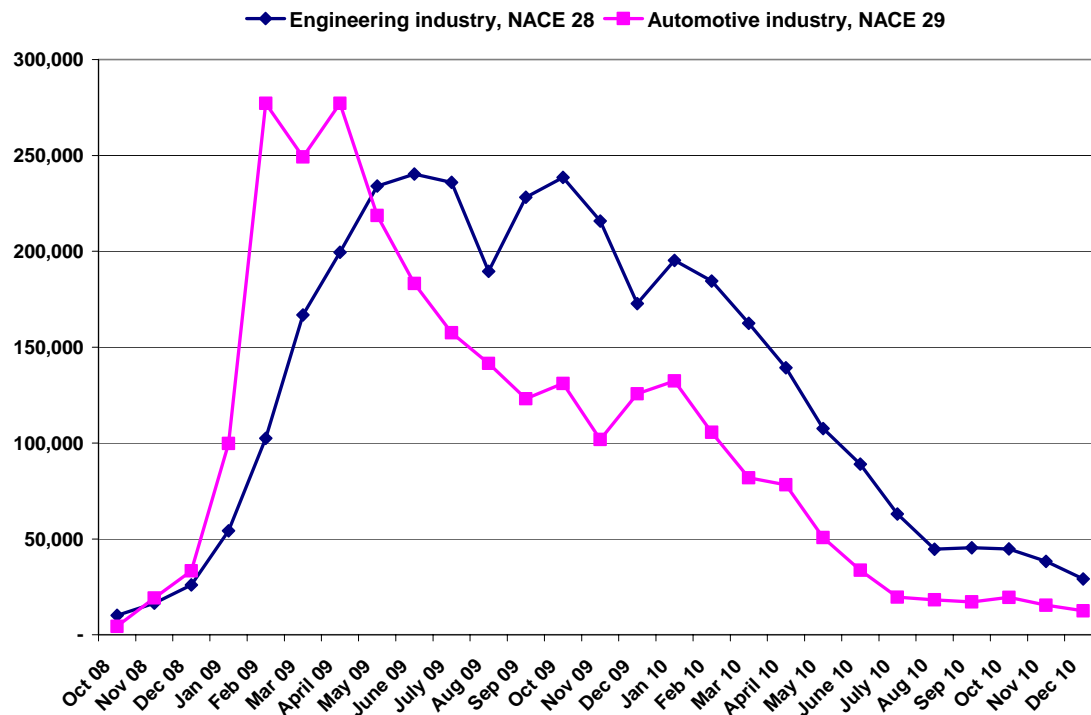
### *The balance of the crisis management*

The limits of the 'crisis corporatism' became evident when it came to the wider political demands IG Metall had tabled in 2008/2009. None of these demands were picked up by the 'grand coalition' government of Christian and Social Democrats, nor by the conservative-liberal coalition which came to power in late 2009 as a result of the general election. A broader political mobilisation of members for these demands did not take place either.

For IG Metall and their members, however, the main focus was on job security and in this core field of activity the balance looked quite favourable. Overall employment in M+E declined less than anticipated in autumn 2008. Besides the fact that the economy recovered comparatively quickly there are two major factors which helped to bring about 'Germany's job miracle' (Krugman 2009). One was the wide-spread use of flexible working time arrangements which were in place in many companies and the second were the extensive use of short-time working schemes (Bogedan et al. 2009; Herzog-Stein and Seifert 2010; Möller 2010). IG Metall points in addition to its promotion of the car scrap bonus and draws a positive balance for its crisis management (Allespach et al. 2010; Ohl 2011). The effects of the car scrap bonus become partly visible if we compare the development of short-time working in the engineering industry with that of the automotive industry (figure 16). Whereas in the engineering industry short-time work remained at a comparatively high level during 2009 and only started to decline in the first quarter of 2010, we see the peak of short-time work in the automotive industry in the first quarter of 2009 followed by a substantial drop in short-time workers in the second quarter of the same year. Due to increasing demands for small cars some

manufacturing sites of Volkswagen not only had no short-time work at all but worked overtime in the first half of 2009.

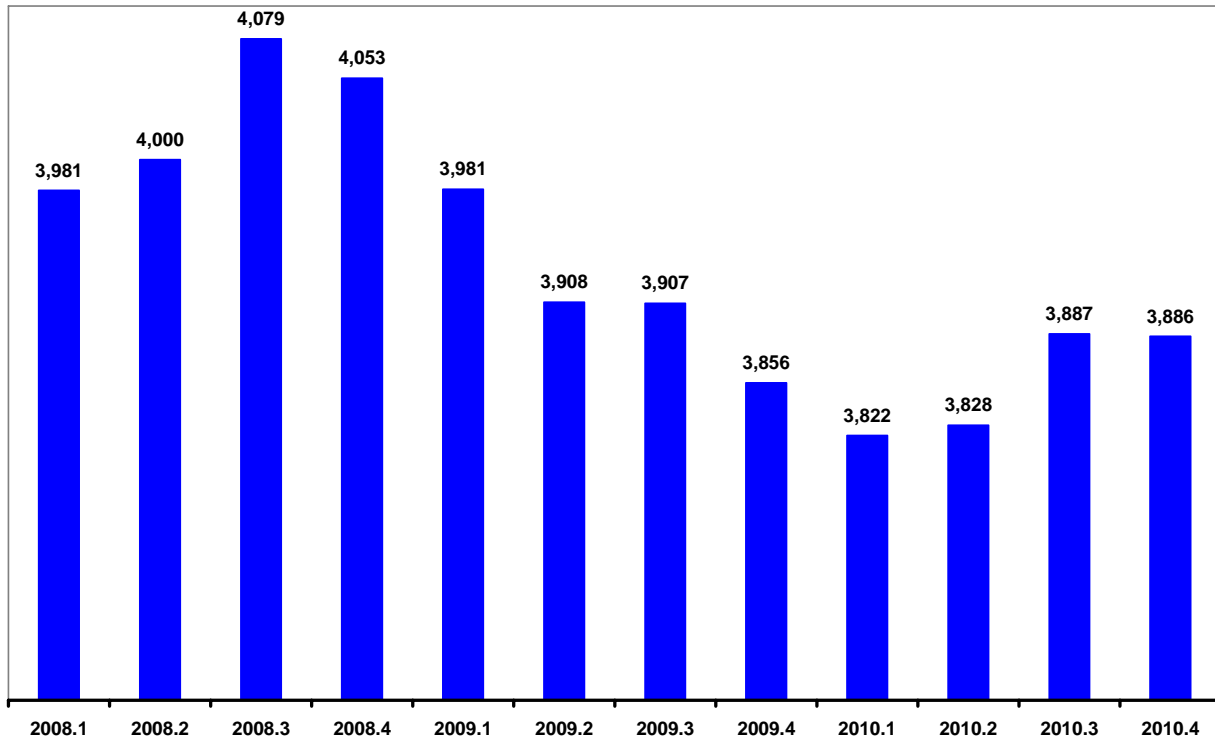
**Figure 16: Short-time workers in machine manufacturing (NACE 28) and automotive industry (NACE 29): monthly development October 2008 - December 2010**



Source: Federal Employment Agency, own calculation

Overall employment in M+E declined by 4.1% between 31 December 2008 and 31 December 2010 (figure 17). In the same two-year period the engineering industry (NACE 28) recorded a decline in employment of 4.8% whereas the core workforce in the automotive industry (NACE 29) was diminished by 3.7%. The detailed picture of the automotive industry shows that the decline in employment during the crisis was proportionally more significant in the supply industries (-4.1%) than in car manufacturing (- 3.4%) (cf. table 7 for details).

**Figure 17: Employment in M+E by end of quarter; 31 March 2008 – 31 December 2010, in 1,000s**



Source: Federal Employment Agency, own calculation;

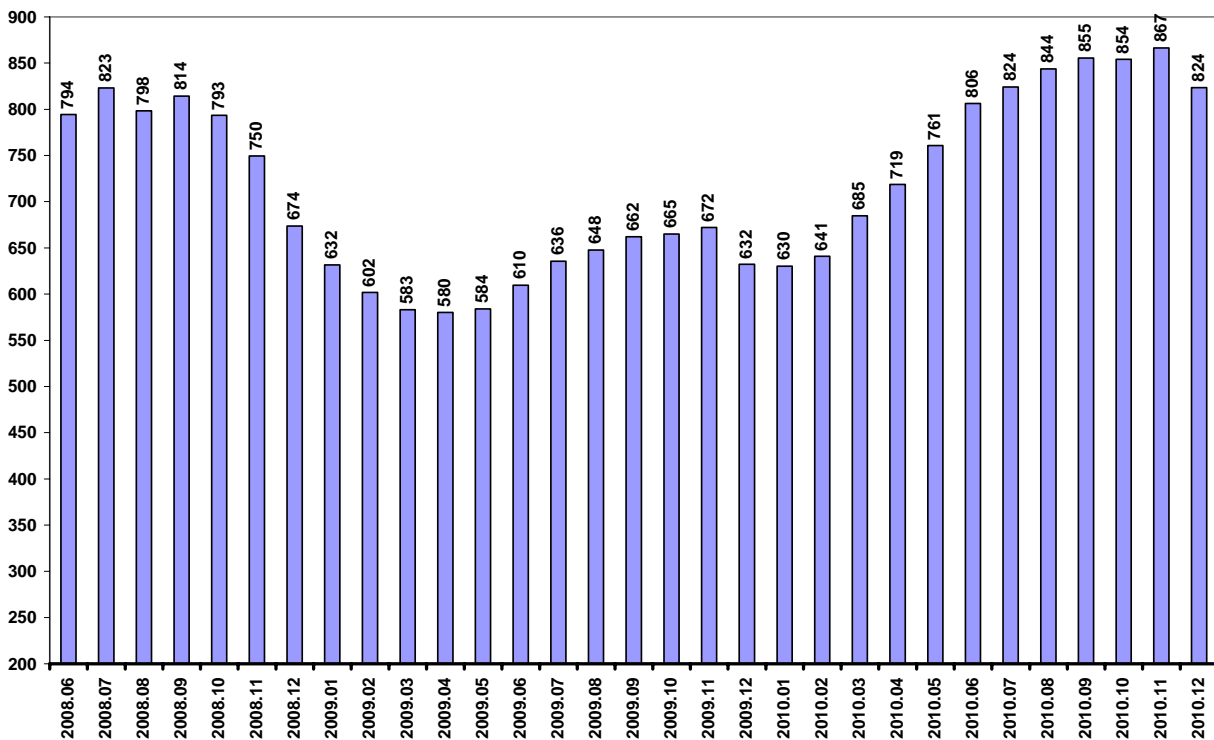
Note: Employees liable to social security contribution; data refers to last day of given quarter, e.g. 31 March 2008, 30 June 2008 etc.

**Table 7: Employment in automotive industries according to major sub sectors, September 2008 – December 2010**

Date	29 Manufacture of motor vehicles, trailers and semi-trailers	29.1 Manufacture of motor vehicles	29.3 Manufacture of parts and accessories for motor vehicles
2008-12-31	809,484	405,538	364,033
2009-03-31	793,886	402,117	354,097
2009-06-30	781,008	398,894	346,671
2009-09-30	781,058	398,882	346,984
2009-12-31	773,885	395,595	342,976
2010-03-31	768,139	392,610	340,469
2010-06-30	769,588	392,240	342,648
2010-09-30	778,775	394,893	347,084
2010-12-31	778,641	392,356	349,033

Source: Federal Employment Agency (BA); employees liable to social security contributions

**Figure 18: Temporary agency workers (total economy): monthly development June 2008 - December 2010, in 1,000s**



Source: Federal Employment Agency, own calculation

The trade union itself also came through the crisis comparatively well. Overall union membership declined between December 2008 and December 2010 by 2.6%. In the car industry, however, the union lost only 0.6% of its working members and in machine manufacturing the decline over two years was a modest 1.3%. The fact that union membership declined significantly less than the number of jobs might be explained by the fact that the union was most widely represented at larger manufacturing sites. We can only assume that short-time work and large scale working-time corridors were here particularly wide-spread and employers probably more prepared to keep their core employees and more reluctant to run into conflicts over dismissals.

However, the union was well aware that there was a price to pay and that temporary agency workers and those with fixed-term contracts quickly lost their jobs. This is mirrored in the overall development of temporary agency work during the crisis (figure 18 above). In the large federal state of North-Rhine Westphalia, IG Metall reported that



in January 2010 only 14% of establishments had kept all their temporary agency workforce (IG Metall Bezirksleitung NRW 2010: 2).

Unfortunately there is no data on the sectoral distribution of temporary agency workers available. IG Metall estimated that in 2008 about 200,000 agency workers were hired out to companies in M+E. In 2007 IG Metall revised its strategy towards agency work (IG Metall 2007). It admitted that the efforts by DGB trade unions to negotiate collective agreements for temporary agency workers had not been an appropriate strategy to solve the problem of wage discrimination. In April 2008 IG Metall had started a campaign for equal pay for agency workers with the aim to organise agency workers hired out to the metalworking industries into the union and to convince works councils to negotiate that whenever agency workers were employed they received the same pay and conditions as the regular staff. These efforts have been partly successful. During the crisis the union offered support and advice for agency workers who lost their jobs. In many cases, however, not only management but effectively also works councils and the core workforce complacently accepted that temporary agency workers served as a buffer which helped to externalise the crisis (Wassermann/Rudolph 2007; Detje et al. 2011). It is precisely because of this experience, however, that this form of employment became even more attractive to HRM departments when the economy recovered in the second half of 2010. In a survey amongst works councils in September 2010 IG Metall found that 43% of companies who needed extra staff preferred to hire temporary agency workers. The campaign for equal pay and a re-regulation of agency work remained a top-priority on IG Metall's post-crisis agenda (Girndt and Müller 2011). In September 2010 the union succeeded in negotiating a landmark collective agreement in the steel industry which provides equal pay for all agency workers employed in this industry.

A price for the crisis management, however, was also paid by those who maintained their jobs. Not only did they have to bear losses in income but in many cases staffing levels were further tightened during the crisis and individual workloads increased. In the aftermath of the crisis there are concerns in IG Metall that cost-cutting strategies in M+E will be further radicalised and that the costs of the crisis will be shifted to society as a whole (Ehlscheid et al. 2010).

## Conclusion

The profound changes which underwent collective bargaining in M+E over the last two decades have to be regarded against the background of a new global and national political and economic environment which emerged after the end of the Cold War. The most significant development was the continuous decentralisation of collective bargaining. It found its expression in a growing number of opening clauses. In the beginning these opening clauses were restricted to a given company experiencing serious economic difficulties and the subsequent threat of substantial job losses. Since the mid 1990s, however, works councils and employees have been confronted with successive waves of restructuring, new production regimes in combination with continuous threats to disinvest if no concessions regarding cost cutting were made. The deviation from collective agreements was transformed, from being an instrument to be applied in extraordinary situations to a more general tool to cut costs in order to improve competitiveness. The Pforzheim Accord of 2004 both legalised this practice and triggered a new wave of such company-level agreements.

The bargaining policy of IG Metall is marked by a contradiction between the political and economic concepts of the union and its pragmatic subordination under the paradigms of competitiveness. On the one hand a Keynesian-oriented approach to macroeconomic policy, stressing the demand side of the economy and demanding public investment and a more expansive wage policy. On the other hand union representatives have followed a bargaining policy at company level which has contradicted precisely this macroeconomic policy approach by agreeing to pay restraints in exchange for jobs.

Parts of the unions have accepted the strategy of 'organised decentralisation' via opening clauses as a way to prevent a further erosion of sectoral bargaining. Others have hoped to regain a certain regulative control over diverging developments at company level. The inherent risk of the opening clauses is that instead of containing erosion, they may serve to amplify it. The sectoral collective agreement is threatened: moving from being a norm which defines the collectively agreed standards within the industry to a mere point of reference. Whereas collective agreements up to the 1970s defined minimum standards they now tend to mark the maximum in pay and conditions.

Despite all these tendencies industrial relations in metalworking have also been marked by a comparatively high level of stability. The peak employers' association has never questioned sectoral bargaining as such and has always recognized IG Metall as its bargaining partner. Although the overall union movement has been largely on the defensive since the mid 1990s and IG Metall has had to face a severe decline in membership, the union has retained substantial bargaining power in metal manufacturing in general and in the car industry in particular and maintained a significant mobilising capacity. Whereas real wages came under pressure nationally, collective bargaining in the metal working resulted - in most years - in real wage increases. The union has also maintained substantial institutional power. Its long-lasting dominance of the institutions of co-determination in M+E has remained unchallenged, so far. The integration of the union into the tripartite crisis management during 2008-2010 is an expression of its political weight in M+E. Bargaining in M+E during the crisis was a mixture of continuity at company level and a temporary interest coalition of employers and IG Metall at sectoral level which is likely to give way to more conflictual relationships when the imminent economic threats for employment are dealt with.

With regard to the automobile industry; IG Metall is well aware that major changes are imminent. International production chains will further be diversified, new production sites in China and other emerging markets will compete with existing plants in Germany. Electric vehicles will gain additional market shares and their production will propel further changes in the industry (IG Metall 2009b). In the midst of the crisis the union commenced an internal restructuring programme, aimed at freeing resources in order to reach out to the emerging green industries and to boost activities to organise employees who are still not organized. (cf. IG Metall Vorstand 2009; Wetzels 2009). These activities are embedded in a wider discussion within the union about the role and future of the union in the forthcoming years (cf. Huber 2010; Meine et al. 2011).

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## Appendix

**Table A1: Agreed pay increases and duration of collective agreements in the metalworking industry**

Year of settlement	Increase in %	In force from Lump-sum and other payments, if applicable	Duration of CA (in months)
1990	6.0 %	from <b>1.4.1990</b> Two lump-sums of DM 215 to cover April and May	12
1991	6.7 %	from <b>1.6.1991</b> Two lump-sums of DM 290 to cover April and May	12
1992	5.4 %	from <b>1.4.1992</b> Increase in annual additional payments of 5%	21
	3.0 %	Second stage increase in grade rates from <b>1.4.1993</b> Increase in annual additional payments of 5%	
1994	2.0 %	from <b>1.6.1994</b> After a 5-month 'pay pause', cut in annual additional payments	11
1995	3.4 %	from <b>1.5.1995</b> Lump-sum payments of DM 152.50 for each month from January-April	24
	3.6 %	Increase in grade rates from <b>1.11.1995</b>	
1997	1.5 %	from <b>1.4.1997</b> Lump-sum payment of DM 200 for the period January-March Reduction in annual payments	24
	2.5 %	Second stage increase in grade rates from 1.4.1998	
1999	3.2 %	from <b>1.3.1999</b> Lump-sum payment of DM 350 for January and February plus a one-off payment of 1% of annual individual agreed income	14
2000	3.0 %	from <b>1.5.2000</b> DM 330 lump-sum to cover March and April 2000	24
	2.1 %	Second stage increase from <b>1.5.2001</b>	
2002	3.1 %	from <b>1.6.2002</b> After a 2-month pay pause and €120 lump-sum payment for May, and an additional one-off payment as part of new pay framework	22
	2.6 %	from <b>1.6.2003</b>	
2004	1.5 %	from <b>1.3.2004</b> after 2-month pay pause	26
	2.0 %	from <b>1.3.2005</b> additional one-off payment as part of new pay framework	
2006	3.0 %	from <b>1.6.2006</b> €310 lump-sum to cover March-May	13
2007	4.1 %	from <b>1.6.2007</b> €400 lump-sum to cover April and May	19
	1.7 %	Second-stage increase of <b>1.6.2008</b> Lump-sum payment of 0.7% of a month's pay	
2008	2.1 %	from <b>1.2.2009</b> €510 lump-sum payment for November 2008 until January 2009, with an additional one-off payment of €122.	18
2010	2.7 %	from <b>1.4.2011</b> €320 lump-sum for the period May 2010-March 2011.	23

Source: WSI-Tarifarchiv



## **Agreed provisions on flexibility and opening clauses in the metalworking and electrical industries (August 2011)**

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### **Working time** (since 1990, with numerous changes)

- Weekly working hours: West - 35 hours; East – 38 hours.
- Extendable for 13/18 per cent of the workplace at an establishment (differs by region) up to 40 on a permanent basis.
- In establishments where more than 50 per cent of a workforce are in higher grades, the quota can be extended to 45/50 per cent (varies by region).
- In order to initiate innovation or in the event of skill shortages, the quota may be raised irrespective of the current structure of employment. The case must be examined by the signatories to the industry agreement on application from the parties at the workplace.
- The reference period over which agreed hours must be attained where fluctuating working hours are agreed ranges from six to 24 months (depending on region).
- Some regions have agreed provisions on flexible working time accounts and long-term accounts.

### **Securing employment through time-limited working time reductions (since 1994)**

- Reduction in working time down to 30 hours per week (33 in East Germany), with some regional variations, and corresponding cuts in income for all (or some) employees to retain jobs.

### **General 'opening clause' ('Pforzheim Accord' (since 2004)**

- Preamble: the aim is retain existing employment and create new jobs in Germany. This requires maintaining and improving competitiveness, capacity for innovation, and a positive environment for investment. The collective bargaining parties commit themselves to these aims and to the task of shaping the context for more employment in Germany.
- The collective bargaining parties may, after consultation with workplace parties, agree supplementary measures or time-limited deviations from agreed minimum standards in order to achieve a sustained improvement in the development of employment: this can include reductions in additional annual payments, deferment of agreed entitlements, raising or lowering working hours, with or without loss of pay).

### **Pay (regularly since 2006)**

- A variety of provisions on implementation of agreed industry pay rises at workplace/company level in a number of agreements (delay, reduction, cancellation, increases).

### **Agreed short-time provisions** (from 2010 to 2012)

- Prerequisite: Statutory short-time work for at least twelve months
- New agreement to short-time work with reduced residual overheads for at least six months
- Reduced working hours with partial remuneration compensation for up to 28/26 hours for at least 6 months

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Source: WSI-Tarifarchiv, as at August 2011

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